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

(The following Chapters are based on the table of organization established by the Corporation Commission)

Chapter

1. Corporation Commission - Corporations and Associations
Article
1. In General
2. Corporate Names

2. Corporation Commission - Fixed Utilities
Article
1. General Provisions
2. Electric Utilities
3. Gas Utilities
4. Water Utilities
5. Telephone Utilities
6. Sewer Utilities
7. Resource Planning
8. Public Utility Holding Companies and Affiliated Interests
9. Customer-Owned Pay Telephones
10. Alternative Operator Services
11. Competitive Telecommunications Services
12. Arizona Universal Service Fund
13. Telecommunications Interconnection and Unbundling
14. Emergency Expired
15. Arbitration and Mediation
16. Retail Electric Competition

Chapter

3. Corporation Commission - Rules of Practice and Procedure
Article
1. Rules of Practice and Procedure Before the Corporation Commission
2. Rules of Practice and Procedure Before Power Plant and Transmission Line Siting Committee

4. Corporation Commission - Securities
Article
1. In General Relating to the Arizona Securities Act
2. Repealed
3. Provisions Relating to Enforcement

5. Corporation Commission - Transportation
Article
1. Railroads
2. Pipeline Safety

6. Corporation Commission - Investment Management
Article
1. General Provisions Relating to the Arizona Investment Management Act
2. Duties of Investment Advisers and Investment Advisers Representatives

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

CHAPTER 1. CORPORATION COMMISSION CORPORATIONS AND ASSOCIATIONS

ARTICLE 1. IN GENERAL

Section
R14-1-101. Debt limitation; exception
R14-1-102. Annual reports and certificates of disclosure
R14-1-103. Licensing Time-frames

ARTICLE 2. CORPORATE NAMES

Article 2 consisting of Sections R14-1-201 through R14-1-222 adopted effective June 21, 1982 (Supp. 82-3).

Section
R14-1-201. Corporate name
R14-1-202. False implication of government affiliation
R14-1-203. Characters of print acceptable -- names
R14-1-204. Existing corporate name -- defined
R14-1-205. Written comparison of names
R14-1-206. Categories of name similarity
R14-1-207. "Same" -- defined
R14-1-208. "Same" name not acceptable
R14-1-209. "Deceptively similar" -- defined
R14-1-210. "Deceptively similar" name not acceptable
R14-1-211. "Similar requiring letter of consent" -- defined
R14-1-212. "Similar requiring letter of consent" acceptable with consent
R14-1-213. Form of consent
R14-1-214. "Similar not requiring letter of consent" -- defined
R14-1-215. A name "similar not requiring letter of consent" is acceptable
R14-1-216. "Not similar" -- defined
R14-1-217. "Not similar" -- acceptable
R14-1-218. Alphabet names
R14-1-219. Surnames -- a surname is considered to be a "word"
R14-1-220. Exception for churches
R14-1-221. Matters not considered in determining name availability
R14-1-222. Final determination

ARTICLE 1. IN GENERAL

R14-1-101. Debt limitation; exception

For the purpose of computing the highest amount of indebtedness which corporations are authorized to incur where the stock has no par value, the Commission has, in accordance with the provisions of A.R.S. § 10-173, fixed the amount of $100.00 per share unless proper showing is made that such stock is reasonably worth more than that sum; provided that such limitation shall not apply to corporations or districts organized for the purpose of providing irrigation or drainage for farm lands, or corporations and districts organized in connection with the development of agricultural improvements, the debt limitation for which shall, upon application, be fixed by the Commission in a reasonable amount, taking into consideration the valuation of properties included within the boundaries of any such project.

Historical Note

Former General Order I-2.

R14-1-102. Annual reports and certificates of disclosure

A. This rule prescribes, pursuant to A.R.S. § 10-142, the form of the Annual Report and Certificate of Disclosure required to be filed with the Commission under A.R.S. §§ 10-125 and 10-128. This rule does not apply to non-profit corporations.

B. Annual report of domestic and foreign corporations

1. Each domestic corporation and each foreign corporation authorized to transact business in this state shall file with the Commission an annual report setting forth the information required by A.R.S. § 10-125.
2. The annual reports of domestic and foreign corporations required to be filed under this subsection shall contain the following information which shall be set forth on the following form provided by the Commission:

ARIZONA CORPORATION COMMISSION
2222 WEST ENCANTO BLVD. SUITE 210-D
PHOENIX, ARIZONA 85009
415 WEST CONGRESS AVENUE TUCSON, ARIZONA 85701

ANNUAL REPORT ARS 10-125 & CERTIFICATE OF DISCLOSURE ARS 10-128

FORM PURSUANT TO ADMINISTRATIVE RULE R14-1-102

DIRECTION: Please complete both sides of this Annual Report, and return to the ARIZONA CORPORATION COMMISSION AT EITHER OF THE ABOVE ADDRESSES WITH YOUR FEE. REPORT MUST BE FILED ON OR BEFORE:

A. CORPORATION INFORMATION:

Corporation Name:
Street Address:
P.O. Box (if any):
City, State, Zip Code:

FILE NO.
TYPE OF CORPORATION
FEE

Principal Office of
Non-Arizona Corporation:
Suite # (if any):
City, State, Zip Code:
Name of Arizona Statutory Agent:
Street Address:
City, State, Zip Code:

ANNUAL REPORT FOR YEAR ENDING
__ __ __
MO. DAY YR.

B. SPECIAL INSTRUCTIONS: If there has been a change in any of the preceding information, please indicate below the change required:

C. * CAPITALIZATION: Aggregate number of shares itemized as follows: * NOT REQUIRED FOR NON-PROFIT CORPORATIONS

NUMBER AUTHORIZED	CLASS	SERIES	PAR VALUE	

NUMBER AUTHORIZED	CLASS	SERIES	PAR VALUE	

D. BRIEF STATEMENT OF THE CHARACTER OF BUSINESS IN WHICH THE CORPORATION IS ACTUALLY ENGAGED IN ARIZONA.

1.

(LIST MUST BE COMPLETE - USE ADDITIONAL SHEET IF NECESSARY)

E. OFFICERS:

President
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Vice-President
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Secretary
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Treasurer
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Other Executive Officer (title)_____
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Other Executive Officer (title)_____
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Other Executive Officer (title)_____
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Other Executive Officer (title) _____
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

F. DIRECTORS

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

(OVER)

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

Director
Name _____
Street Address _____
P.O. Box _____
City, State Zip Code _____
Date of taking this office: MO. _____ DAY _____ YR. _____

2.

G. STATEMENT OF FINANCIAL CONDITION
BALANCE SHEET

YOU MAY SUBSTITUTE FOR THIS BALANCE SHEET AN EXACT COPY OF THE FINANCIAL REPORT TO SHAREHOLDERS AS PROVIDED IN A.R.S. § 10-127, A COPY OF SCHEDULE L, FILED WITH THE INTERNAL REVENUE SERVICE, OR A COPY OF SCHEDULE L, FORM 120 FILED WITH THE ARIZONA DEPARTMENT OF REVENUE FOR THE PURPOSES OF TAXATION OF INCOME PURSUANT TO TITLE 43, ARIZONA REVISED STATUTES.

ASSETS	AMOUNT	TOTAL
Cash		----------
Trade notes and accounts receivable		----------
(a) Less allowance for bad debts	----------	----------
Inventories		----------
Gov't obligations: (a) U.S. and instrumentalities	----------	
(b) State, subdivisions thereof, etc.	----------	----------
Other current assets		----------
Loans to shareholders		----------
Mortgage and Real Estate loans		----------
Other investments		----------
Buildings and other fixed depreciable asset	----------	----------
(a) Less accumulated depreciation	----------	----------
Depletable assets	----------	
(a) Less accumulated depreciation	----------	----------
Land (net of any amortization)		----------
Intangible assets (amortizable only)	----------	
(a) Less accumulated amortization	----------	----------
Other assets		----------
Total assets		----------

LIABILITIES AND CAPITAL	
Accounts payable	----------
Mtges., notes, bonds payable in less than 1 yr.	----------
Other current liabilities	----------
Loans from shareholders	----------
Mtges., notes, bonds payable in 1 yr. or more	----------
Other liabilities	----------
Total assets	----------
Capital stock: (a) Preferred stock	----------
(b) Common stock	----------
Paid-in-or capital surplus	----------
Retained earnings - Appropriated	----------
Retained earnings - Unappropriated	----------
Less cost of treasury stock	----------
Total capital	----------
Total liabilities and Capital	----------

3.

H. SHAREHOLDERS: DIRECTIONS: Fill in names of shareholders of record holding more than 20% of any class of shares issued by the corporation, including persons beneficially holding such shares through nominees. If additional space is needed, attach a separate sheet.

Shareholder Name _____ ○	**Shareholder** Name _____ ○
Shareholder Name _____ ○	**Shareholder** Name _____ ○
Shareholder Name _____ ○	**Shareholder** Name _____ ○

I. ALL CORPORATE TAX RETURNS REQUIRED BY TITLE 43 HAVE BEEN FILED WITH THE ARIZONA DEPARTMENT OF REVENUE.

Under penalties of law, I declare that I have examined this report, including any attachments, and to the best of my knowledge and belief it is true, correct and complete. (MUST BE SIGNED BY PRESIDENT, VICE PRESIDENT, SECRETARY, ASSISTANT SECRETARY OR TREASURER.)

BY: X_____	BY: X_____
TITLE: _____	TITLE: _____

_____
(Date of Signing)

NOTE:
If you are unable to file this Annual Report on or before the date which appears on page 1 of this report, you may, but only on or before that date, file a written request to the Incorporating Division, Annual Report Section for an extension of time, not to exceed 60 days, in which to file this report. The request for an extension of time MUST be accompanied by the annual fee which also appears in part A on page 1 of this report. Only after filing that request and paying the annual fee can the Commission grant this request for extension.

3. Each domestic and foreign corporation required to file the annual report on the form prescribed in this subsection may substitute for Part G of the form an exact copy of the financial report to shareholders as provided in A.R.S. § 10-127, a copy of Schedule L filed with the Internal Revenue Service, or a copy of Schedule L, Form 120 filed with the Arizona Department of Revenue for the purposes of taxation of income pursuant to Title 43, Arizona Revised Statutes.

C. Certificate of disclosure

1. The initial certificate executed by all incorporators shall be delivered to the Commission simultaneously with the Articles of Incorporation or trust, or application for authority to transact business as provided by law.
2. All existing domestic and foreign corporations shall execute a certificate of disclosure executed by any two officers or directors of such corporation as part of the annual report required by A.R.S. § 10-125 unless otherwise exempted from the provisions of A.R.S. § 10-125 in which case they shall file said certificate of disclosure in a time and manner as provided by law.
3. The certificate of disclosure required to be filed by this subsection shall contain the following information which shall be set forth on the following form provided by the Commission:

J. CERTIFICATE OF DISCLOSURE

A.R.S. 10-128 **CHECK BOX "A" OR "B" WHICHEVER IS APPROPRIATE**

THE UNDERSIGNED CERTIFY THAT

A.

No person serving either by election or appointment as officers, directors, trustees, incorporators and persons controlling, or holding more than 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation:

1. Have been convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction within the seven year period immediately preceding the execution of this certificate.

2. Have been convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, or restraining of trade or monopoly in any state or federal jurisdiction within the seven year period immediately preceding the execution of this certificate.

3. Have been or are subject to an injunction, judgment, decree or permanent order of any state or federal court entered within the seven year period immediately preceding the execution of this certificate, where such injunction, judgment, decree or permanent order:

(a)Involved the violation of fraud or registration provisions of the securities laws of that jurisdiction; or

(b)Involved the violation of the consumer fraud laws of that jurisdiction; or

(c) Involved the violation of the antitrust or restraint laws of trade laws of that jurisdiction.

B.

The following persons serving either by election or appointment as officers, directors, trustees, incorporators and persons controlling, or holding more than 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation, have been or are subject to one or more of the statements listed in items 1 through 3 above:

I. NAME(S)_____

II. THE FOLLOWING INFORMATION ON EACH PERSON LISTED MUST ACCOMPANY THIS REPORT.

1.Full name and prior names used.
2.Full birth name.
3.Present home address.
4.Prior addresses (for immediately preceding 7 year period).
5.Date and location of birth.
6.Social security number.
7.The nature and description of each conviction or judicial action, the date and location, the court and public agency involved, and the file or cause number of the case.

DATED: _____ **EXACT CORPORATE NAME:**_____

Under penalties of law, I declare that I have examined this certificate, including any attachments, and to the best of my knowledge and belief it is true, correct and complete. (MUST BE SIGNED BY ANY TWO EXECUTIVE OFFICERS OR DIRECTORS OF THE CORPORATION.)

BY: X _____ BY: X _____

TITLE: _____ **TITLE:** _____

NOTE: **Date of signing** _____

Before returning to the Commission, please make sure that you have signed part I AND part J of this report, please make sure that you have checked the appropriate box in part J of this report, and that you have submitted your check or other remittance for the annual fee which is required by law to accompany this report. If you have any questions, please contact the Annual Report Section of the Incorporating Division of the Arizona Corporation Commission.

4.

D. This rule shall be effective December 31, 1977.

Historical Note

Former General Order I-3 not in original publication, correction (Supp. 75-1). Former Section R14-1-102 repealed, new Section R14-1-102 adopted effective December 31, 1977 (Supp. 77-6).

R14-1-103. Licensing Time-frames

A. This rule prescribes time-frames for the processing of any certificate or license issued by the Arizona Corporation Commission pursuant to A.R.S. Title 10 and Title 29.

B. Within 270 calendar days after receipt of an initial or renewal application for any certificate or license provided pursuant to A.R.S. Title 10 or Title 29, 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.

C. The Commission may terminate an application if the applicant does not remedy all deficiencies within 30 calendar days of the date on the notice of deficiency or permit the applicant to remedy the deficiencies based on the following 2 factors:

1. Amount of information or work necessary to remedy the deficiencies; or
2. Effect on other Commission priorities.

D. After an application has been deemed administratively complete, and the applicant has been notified in writing, staff shall have 90 calendar days for substantive review of the application.

E. For purposes of A.R.S. Title 41, Chapter 6, Article 7.1, the Commission has established the following time-frames:

1. Administrative completeness review time-frame: 270 calendar days,
2. Substantive review time-frame: 90 calendar days,
3. Overall time-frame: 360 calendar days.

Historical Note
New Section adopted by final rulemaking at 5 A.A.R. 1019, effective March 18, 1999 (Supp. 99-1).

ARTICLE 2. CORPORATE NAMES

R14-1-201. Corporate name

A. The corporate name is the initial means of identifying a legal entity; therefore, each name must be distinctive and distinguishable from existing corporate names.

B. The corporate name of a profit corporation, foreign or domestic, shall contain one or more words of incorporation as applicable. The accepted words of incorporation and their accepted abbreviations are: Association -- Assn.; Bank -- no abbreviation; Corporation -- Corp.; Company -- Co.; Incorporated -- Inc. and Limited -- Ltd.

C. The corporate name shall comply in all respects with A.R.S. § 10-008.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-202. False implication of government affiliation

The corporate name may not be one that might falsely imply governmental affiliation.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-203. Characters of print acceptable -- names

Corporate names must consist of letters of the English alphabet, arabic numerals or combinations thereof.

1. Letters of the English alphabet will be used in the upper case (capital letters) only. No distinction as to type, face, or font is recognized.
2. Arabic numerals include: 0, 1, 2, 3, 4, 5, 6, 7, 8, 9.
3. A space or spaces after words, letters or numerals may be considered as part of the name.
4. Roman numerals will be treated as letters of the English alphabet.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-204. Existing corporate name -- defined

For the purposes of these rules, an "existing corporate name" is the name of any domestic corporation existing under the laws of this state; the name of any foreign corporation authorized to transact business in this state; a name reserved with the Arizona Corporation Commission pursuant to A.R.S. § 10-009 or 10-1007(B); or a trade name registered with the Secretary of State pursuant to A.R.S. § 44-1460.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-205. Written comparison of names

A. A comparison of names to determine similarity is made by writing the names to be compared, using upper case letters of the English alphabet and acceptable numerals.

B. For purposes of determining name similarity, every domestic corporation is deemed to contain the word "Arizona", either expressed or implied, in its corporate name.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-206. Categories of name similarity

There are five categories of name similarity: Same (defined in R14-1-207); Deceptively Similar (defined in R14-1-209); Similar, requiring letter of consent (defined in R14-1-211); Similar, not requiring letter of consent (defined in R14-1-214) and Not Similar (defined in R14-1-216).

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-207. "Same" -- defined

A. Corporate names are the "same" if a comparison of the names, written, reveals no differences.

B. A proposed corporate name is deemed to be the "same" as an existing corporate name if the difference in names consists in the use of different "words of incorporation". (See R14-1-201.)

Example: HAAG, INC. is deemed to be the "same" as HAAG CORPORATION.
Example: INDEMNITY ASSOCIATION is deemed to be the "same" as INDEMNITY LIMITED.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-208. "Same" name not acceptable

A. A proposed corporate name which is deemed to be the "same" as an existing corporate name *cannot* be filed even with a letter of consent from the entity having the same name.

B. A name which has been ruled "same" as an existing corporate name can be changed to the category "similar, requiring letter of consent", by the addition of one or more words which make the proposed name distinguishable from the existing corporate name. (A.R.S. § 10-008(3))

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-209. "Deceptively similar" -- defined

A proposed corporate name is deemed to be "deceptively similar" to an existing corporate name if:

1. The difference in the names consists in the use of different articles of speech.
   Example: THE LONG CO. is deemed "deceptively similar" to LONG CO.
   Example: THE FINISHLINE COMPANY is deemed "deceptively similar" to A FINISHLINE CO.
2. The difference consists in the use of punctuation, spaces and symbols.
   Example: The following names are "deceptively similar":
   ABC CORP. AB&C CORP.
   A B C CORP. A&BC CORP.
   A.B.C. CORP. AB-C CORP.
   A*B*C CORP.
   Example: GOOD TIME REST HOME, INC. is "deceptively similar" to GOODTIME REST HOME, INC.
3. The difference consists in the presence or absence of letters which do not sufficiently alter the names to make them readily distinguishable:
   Example: The following names are "deceptively similar":
   EXXON EXXONN
   EXON EXXONS
4. The difference consists in obvious or well-known variant spellings.

Example: KAR CLASSICS, INC. is "deceptively similar" to CAR CLASSICS, INC.
Example: SAGUARO CLUB, LTD. is "deceptively similar" to SAHUARO CLUB, LTD.

5. The difference exists in the use of words with essentially the same meaning.
   Example: ANDERSON REALTY CORP. is "deceptively similar" to ANDERSON REAL ESTATE CORP.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-210. "Deceptively similar" name not acceptable

A. A proposed corporate name which is deemed to be "deceptively similar" to an existing corporate name cannot be accepted or filed, even with a letter of consent from the corporation having the similar corporate name.

B. A name which has been ruled "deceptively similar" to an existing corporate name can be changed to the category "similar, requiring letter of consent" by the addition of one or more words which make the proposed name distinguishable from the existing corporate name. (A.R.S.§ 10-008(A)(3))

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-211. "Similar requiring letter of consent" -- defined

A proposed name may be deemed "similar requiring letter of consent" if:

1. The proposed corporate name is the "same" as, or "deceptively similar" to an existing corporate name except for a geographical designation.
   Example: Existing corporate name: JOHNSON PRODUCTS, INC.
   Proposed corporate name: JOHNSON PRODUCTS OF PHOENIX, INC.
   Similar requiring letter of consent.
2. The first words of a proposed corporate name are the same as the first words of an existing corporate name.
   Example: Existing corporate name: TUCSON SERVICE, INC.
   Proposed corporate name: TUCSON SERVICE AND SUPPLY, INC.
   Similar requiring letter of consent.
3. Names containing a fictitious, fanciful or arbitrary word.
   Example: Existing corporate name: ARCO, INC.
   Proposed corporate name: ARCO PRODUCTION COMPANY
   Similar requiring letter of consent.
4. The proposed corporate name implies the entity to be an affiliate or extension of an existing corporate name. (Rule R14-1-214(A)(4))

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-212. "Similar requiring letter of consent" acceptable with consent

A proposed corporate name which is ruled to be "similar, requiring letter of consent" cannot be filed without the letter of consent.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-213. Form of consent

The Arizona Corporation Commission will identify to the applicant the entity or entities from whom consent must be obtained. The consent will be in writing, on letterhead, showing the existing corporate name, the proposed corporate name, to whom consent is given, and signed by the firm's president or chief executive officer. Consent given orally or by telegraph cannot be accepted. Consent from more than one existing corporate name may be required.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-214. "Similar not requiring letter of consent" -- defined

Proposed corporate names are "similar not requiring letter of consent" if a written comparison of the names reveals similarities, but not to the extent that the names are deemed by the Commission to be deceptively similar. A proposed corporate name would fall in this category if:

1. The proposed corporate name is nonprofit and is the same or similar to an existing nonprofit corporate name except for a geographical designation.
   Example: Existing nonprofit corporate name: JAVELINA AND BEAR CLUB
   Proposed nonprofit corporate name: PHOENIX JAVELINA AND BEAR CLUB
   Similar not requiring letter of consent.
2. Except for the word "Arizona", when the name of a town, city, state, or geographical designation is added to an existing nonprofit corporate name, the proposed name is acceptable, providing that the registered office of the proposed nonprofit corporation is not located in the same town or city as the existing nonprofit corporation.
3. The existing corporate name has only one significant word and the proposed corporate name consists of the same word followed by a descriptive word which distinguishes the proposed corporate name from the existing corporate name.
   Example: Existing corporate name: UNITED COMPANY
   Proposed corporate name: UNITED SALES, INC.
   UNITED FOODS, CORP.
   UNITED INDUSTRIES ASSN.
   UNITED PRODUCTS CO.
   UNITED SUPPLY, LTD.
   Similar not requiring letter of consent.
4. A letter of consent *will be required* if the proposed corporate name consists of the same word, followed by a word or words which suggest the proposed entity to be an affiliate or extension of the existing corporate name.
   Example: Existing corporate name: UNITED COMPANY
   Proposed corporate name: UNITED OF TEXAS, INC.
   UNITED SOUTHWEST COMPANY
   UNITED NO. 7 COMPANY
   UNITED PHASE TWO, INC.
   Similar requiring letter of consent.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-215. A name "similar not requiring letter of consent" is acceptable

A proposed corporate name which is ruled to be "similar not requiring letter of consent" will be accepted and filed without further requirement.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-216. "Not similar" -- defined

Names are not similar if a comparison of the names, written, reveals no significant similarity.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-217. "Not similar" -- acceptable
A proposed corporate name which is ruled "not similar" will be accepted and filed without further requirement.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-218. Alphabet names
When a name or segment of the proposed name consists of initial letters of the alphabet, the combination of the initials will be considered as one word for the purpose of applying name availability rules.

Example: The following are different "words" and are not considered to be similar:

A&A	A&B
AAA	AAB
AAAA	AAAC

Existing corporate name: A & B, INC.
Proposed corporate name: AA&B, INC.
Similar not requiring letter of consent.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-219. Surnames -- a surname is considered to be a "word"
When an existing corporate name contains a surname and the proposed corporate name consists of that surname, preceded by a given name or initials, the proposed name is "similar not requiring letter of consent".

Example: Existing corporate name: WILLIAMS ELECTRIC COMPANY
Proposed corporate names: E. G. WILLIAMS ELECTRIC COMPANY
(or)
JIM WILLIAMS ELECTRIC COMPANY
Similar not requiring letter of consent.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-220. Exception for churches
When proposed names of churches are the same as existing names of churches by virtue of their affiliation, but differ in geographical designation, a letter of consent is not required.

Example: Persons proposing to incorporate a church named *First Baptist Church* of Phoenix, would not be required to obtain a letter of consent from *First Baptist Church of Mesa*.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-221. Matters not considered in determining name availability
Only the proposed corporate name and existing corporate names are considered when determining name availability. Among matters not considered are:

1. Whether or not the purpose of a proposed corporation is the same or similar to the purpose of an existing corporation.
2. Whether an analogous situation has been acted upon by the Corporation Commission.
3. Whether an opinion has previously been expressed by an employee of the Incorporating Division of the Arizona Corporation Commission or the Secretary of State's Office.
4. Whether or not an existing corporation is actively engaged in business, or has a telephone listing, or a generally-known place of business.
5. Whether or not an existing corporation is about to change its name, dissolve, or merge out of existence.
6. Whether or not a letter of consent can be obtained from an existing corporation.
7. Whether or not the applicant is more or less important, extensive, widely-known, or influential than an existing corporation.
8. Whether or not the applicant has ordered stationery, opened a bank account, signed a contract, or otherwise altered his position in the expectation, hope or belief that the proposed name is available.
9. Whether or not the applicant believes it has a prior or superior right to the use of a name apart from what is on file in the Incorporating Division of the Arizona Corporation Commission or the Secretary of State's Office.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

R14-1-222. Final determination

A. Verbal approval by the Commission for the use of a proposed corporate name is advisory only and is subject to final determination by the Commission.

B. A proposed corporate name may be reserved in writing pursuant to A.R.S. §§ 10-009 or 10-1007. This written approval is based on the assumption that the proposed corporate name meets all other statutory requirements and is, therefore, also subject to final determination by the Commission.

C. Final determination that a name is or is not available is made at the time one of the following documents is processed for filing:
1. Articles of Incorporation
2. Application for Authority to do business by a foreign corporation
3. Articles of Amendment containing a name change
4. Articles of Merger containing a name change
5. Articles of Consolidation containing a name change.

D. If the name is determined available and the document in which the name is contained is approved, the document is filed and the name becomes an "existing corporate name".

E. If the name is determined not available, the applicant is notified of that fact by the document being returned to the applicant indicating:
1. The proposed name is the same as an existing corporate name, or
2. The proposed name is deceptively similar to an existing corporate name, or
3. The proposed name is similar to an existing corporate name and requires a letter of consent from the existing corporation.

Historical Note
Adopted effective June 21, 1982 (Supp. 82-3).

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

CHAPTER 2. CORPORATION COMMISSION FIXED UTILITIES

(Authority: Article XV, § 3, Constitution of Arizona and A.R.S. § 40-202 et seq.)

The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)). This exemption means that the rule was not certified by the Attorney General. Because this Chapter was filed under a rulemaking exemption, as determined by the Corporation Commission, other than a statutory exemption, the Chapter is printed on green paper.

Chapter 2 consisting of Sections R14-2-104, R14-2-105, R14-2-201 through R14-2-213, R14-2-301 through R14-2-313, R14-2-401 through R14-2-411, R14-2-501 through R14-2-510, and R14-2-601 through R14-2-610 adopted effective March 2, 1982.

ARTICLE 1. GENERAL PROVISIONS

Former Sections R14-2-103, R14-2-127, and R14-2-128, renumbered as Sections R14-2-101 through R14-2-103 respectively and former Section R14-2-135 renumbered as Section R14-2-314 effective March 2, 1982.

Former Sections R14-2-101, R14-2-102, R14-2-104, R14-2-106 through R14-2-126, R14-2-129, R14-2-130, R14-2-132 through R14-2-134 repealed effective March 2, 1982.

Section
R14-2-101. Accident reports
R14-2-102. Treatment of depreciation
R14-2-103. Defining Filing Requirements in Support of a Request by a Public Service Corporation Doing Business in Arizona for a Determination of the Value of Property of the Corporation and of the Rate of Return Thereon, or in Support of Proposed Increased Rates or Charges
R14-2-104. Inspection of annual reports
R14-2-105. Notice of rate hearings
R14-2-106. Commission Color Code to Identify Location of Underground Facilities

ARTICLE 2. ELECTRIC UTILITIES

Section
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
R14-2-211. Termination of Service
R14-2-212. Administrative and Hearing Requirements
R14-2-213. Conservation

ARTICLE 3. GAS UTILITIES

Section
R14-2-301. Definitions
R14-2-302. Certificate of Convenience and Necessity for gas utilities; additions/extensions; abandonments
R14-2-303. Establishment of service
R14-2-304. Minimum customer information requirements
R14-2-305. Master metering
R14-2-306. Service lines and establishments
R14-2-307. Main extensions
R14-2-308. Provision of service
R14-2-309. Meter reading
R14-2-310. Billing and collection
R14-2-311. Termination of service
R14-2-312. Administrative and Hearing Requirements
R14-2-313. Conservation
R14-2-314. Intermittent gas ignition

ARTICLE 4. WATER UTILITIES

Section
R14-2-401. Definitions
R14-2-402. Certificate of Convenience and Necessity for water utilities; abandonments
R14-2-403. Establishment of service
R14-2-404. Minimum customer information requirements
R14-2-405. Service connections and establishments
R14-2-406. Main extension agreements
R14-2-407. Provision of service
R14-2-408. Meter reading
R14-2-409. Billing and collection
R14-2-410. Termination of service
R14-2-411. Administration and Hearing Requirements

ARTICLE 5. TELEPHONE UTILITIES

Section
R14-2-501. Definitions
R14-2-502. Certificate of Convenience and Necessity for telephone utilities; additions/extensions; abandonments
R14-2-503. Establishment of service
R14-2-504. Minimum customer information requirements
R14-2-505. Service connections and establishments
R14-2-506. Construction Agreement
R14-2-507. Provision of Service
R14-2-508. Billing and collection
R14-2-509. Termination of service
R14-2-510. Administrative and Hearing Requirements

ARTICLE 6. SEWER UTILITIES

Section
R14-2-601. Definitions
R14-2-602. Certificate of Convenience and Necessity for sewer utilities; additions/extensions; abandonments
R14-2-603. Establishment of service
R14-2-604. Minimum customer information requirements
R14-2-605. Service connections
R14-2-606. Collection main extension agreements
R14-2-607. Provision of service
R14-2-608. Billing and collection
R14-2-609. Termination of service
R14-2-610. Administrative and Hearing Requirements

ARTICLE 7. RESOURCE PLANNING

Section
R14-2-701. Definitions

R14-2-702. Applicability
R14-2-703. Utility reporting requirements
R14-2-704. Commission review of utility plans

ARTICLE 8. PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS

Section
R14-2-801. Definitions
R14-2-802. Applicability
R14-2-803. Organization of Public Utility Holding Companies
R14-2-804. Commission Review of Transactions Between Public Utilities and Affiliates
R14-2-805. Annual Filing Requirements of Diversification Activities and Plans
R14-2-806. Waiver from the Provisions of this Article

ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES

Section
R14-2-901. Definitions
R14-2-902. Application for Certificate of Convenience and Necessity
R14-2-903. Grant of Certificate of Convenience and Necessity
R14-2-904. Application for Adjudication not a Public Service Corporation
R14-2-905. Generic (Streamlined) COPT Tariff
R14-2-906. Special (Non-Streamlined) COPT Tariff
R14-2-907. Reporting Requirements and Safety Standards
R14-2-908. Violations
R14-2-909. Variations or Exemptions from the Commission's Rules

ARTICLE 10. ALTERNATIVE OPERATOR SERVICES

Article 10, consisting of Sections R14-2-1001 through R14-2-1014, adopted effective November 2, 1993, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 93-4).

Section
R14-2-1001. Definitions
R14-2-1002. Application for Certificate of Convenience and Necessity
R14-2-1003. Grant of Certificate of Convenience and Necessity
R14-2-1004. Rates, Operator Service Charges, and Surcharges
R14-2-1005. End-user Notification and Choice Requirements
R14-2-1006. Public Safety Requirements
R14-2-1007. Billing and Collection
R14-2-1008. Call Splashing Requirements
R14-2-1009. Complaint Processing
R14-2-1010. Quality of Service
R14-2-1011. Reports
R14-2-1012. Violations
R14-2-1013. IntraLATA Long-distance Service is Prohibited
R14-2-1014. Variations or Exemptions from the Commission's Rules

ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES

Article 11, consisting of Sections R14-2-1101 through R14-2-1115, adopted effective June 27, 1995, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 95-2).

Section
R14-2-1101. Applications of Rules
R14-2-1102. Definitions
R14-2-1103. Certificates of Convenience and Necessity Required
R14-2-1104. Expanded Certificates of Convenience and Necessity for Telecommunications Companies with Existing Certificates; Initial Tariffs
R14-2-1105. Certificates of Convenience and Necessity for Telecommunications Companies Offering Competitive Services; Initial Tariffs
R14-2-1106. Grant of Certificates of Convenience and Necessity
R14-2-1107. Application to Discontinue or Abandon Local Exchange Service Area
R14-2-1108. Determination of a Competitive Telecommunications Service
R14-2-1109. Pricing of Competitive Telecommunications Services
R14-2-1110. Competitive Telecommunications Services -- Procedures for Rate Change
R14-2-1111. Requirement for IntraLATA Equal Access
R14-2-1112. Interconnection Requirements
R14-2-1113. Establishment of Universal Service Fund
R14-2-1114. Service Quality Requirements for the Provision of Competitive Services
R14-2-1115. Administrative Requirements

ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND

Article 12, consisting of Sections R14-2-1201 through R14-2-1217, adopted effective April 26, 1996, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 96-2).

Section
R14-2-1201. Definitions
R14-2-1202. Calculation of AUSF Support
R14-2-1203. Request for AUSF Support
R14-2-1204. Funding of the AUSF
R14-2-1205. Calculation of Surcharges
R14-2-1206. Implementation
R14-2-1207. Calculation of Monthly Payments and the Associated Collections
R14-2-1208. Monthly AUSF Disbursements
R14-2-1209. Procedures for Handling AUSF Rate Changes
R14-2-1210. Statement of Participation of all Telecommunications Service Providers in the AUSF
R14-2-1211. Duties and Responsibilities of the AUSF Administrator
R14-2-1212. Interim Administrator
R14-2-1213. Guidelines for Auditing the AUSF
R14-2-1214. Enforcement of Collection of Delinquent AUSF Amounts
R14-2-1215. AUSF Annual Report
R14-2-1216. Review Process
R14-2-1217. Supersession of Existing USF Mechanism

ARTICLE 13. TELECOMMUNICATIONS INTERCONNECTION AND UNBUNDLING

Article 13, consisting of Sections R14-2-1301 through R14-2-1311, adopted effective September 6, 1996, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 96-3).

Section
R14-2-1301. Application of Rules
R14-2-1302. Definitions
R14-2-1303. Points of Interconnection
R14-2-1304. Reciprocal Compensation
R14-2-1305. Local and Toll Rating Centers
R14-2-1306. Access to Databases/other Network Functions
R14-2-1307. Unbundling
R14-2-1308. Number Portability
R14-2-1309. Cost Methodology

R14-2-1310. Pricing
R14-2-1311. Waivers

ARTICLE 14. EMERGENCY EXPIRED

Article 14, consisting of Sections R14-2-1401 through R14-2-1409, emergency expired (Supp. 97-1).

Article 14, consisting of Sections R14-2-1401 through R14-2-1409, adopted December 22, 1995, effective for a maximum of 180 days, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 95-4).

ARTICLE 15. ARBITRATION AND MEDIATION

Article 15, consisting of Sections R14-2-1501 through R14-2-1507, emergency expired; new Article 15, consisting of Sections R14-2-1501 through R14-2-1509, adopted effective August 27, 1997, pursuant to an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Article 15, consisting of Sections R14-2-1501 through R14-2-1507, adopted January 17, 1997, effective for a maximum of 180 days, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 97-1).

Article 15, consisting of Sections R14-2-1501 through R14-2-1507, adopted July 23, 1996, effective for a maximum of 180 days, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired.

Section
R14-2-1501. Application of Rules
R14-2-1502. Definitions
R14-2-1503. Negotiation
R14-2-1504. Mediation
R14-2-1505. Arbitration
R14-2-1506. Filing and Service of Request for Approval of Interconnection Agreement
R14-2-1507. Approval Procedure
R14-2-1508. Amendments
R14-2-1509. Replacement or Subsequent Interconnection Agreements

ARTICLE 16. RETAIL ELECTRIC COMPETITION

Article 16, consisting of Sections R14-2-1601 through R14-2-1616, adopted effective December 26, 1996, pursuant to an exemption from the regular rulemaking process as determined by the Arizona Corporation Commission (Supp. 96-4).

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

ARTICLE 1. GENERAL PROVISIONS

R14-2-101. Accident reports

A. Where not otherwise specifically prescribed by rule with respect to particular classes of public service corporations, all public service corporations shall report in writing by the end of the next working day to the Commission all accidents in which such public service corporations are involved, which result in death, personal injury to any person necessitating off-site medical attention, or property damage exceeding $5,000.00. For purposes of this rule, off-site medical attention includes any medical treatment provided by medical professionals which requires transportation of the patient by ambulance, or treatment of the patient in an emergency room, or in-patient hospitalization. For those accidents in which it is not readily determinable if the property damage exceeds $5,000.00, the public service corporation will have an additional two working days in which to submit its report. Any associated personal injuries requiring off-site medical attention would still have to be reported within the initial business day.

B. This report shall state, as accurately as possible, the dollar amount of the damage. If this amount is not known immediately, or if investigation discloses a 15% or greater variation from the amount in this report, a follow-up report shall be submitted.

C. If such accidents result in death or injury likely to result in death, a report shall also be made within 24 hours by telegraph or telephone stating the essential facts.

Historical Note

Former Section R14-2-101 repealed, former Section R14-2-103 renumbered as Section R14-2-101 without change effective March 2, 1982 (Supp. 82-2). Amended effective February 3, 1989 (Supp. 89-1).

R14-2-102. Treatment of depreciation

A. The following definitions shall apply in this Section unless the context otherwise requires:

1. "Accumulated depreciation" means the summation of the annual provision for depreciation from the time that the asset is first devoted to public service.
2. "Cost of removal" means the cost of demolishing, dismantling, removing, tearing down, or abandoning of physical assets, including the cost of transportation and handling incidental thereto.
3. "Depreciation" means an accounting process which will permit the recovery of the original cost of an asset less its net salvage over the service life.
4. "Depreciation rate" means the percentage rate applied to the original cost of an asset to yield the annual provision for depreciation.
5. "Net salvage" means the salvage value of property retired less the cost of removal.
6. "Original cost" means the cost of property at the time it was first devoted to public service.
7. "Property retired" means assets which have been removed, sold, abandoned, destroyed, or which for any cause have been withdrawn from service and books of account.
8. "Salvage value" means the amount received for assets retired, less any expenses incurred in selling or preparing the assets for sale; or if retained, the amount at which the material recoverable is chargeable to materials and supplies, or other appropriate accounts.
9. "Service life" means the period between the date an asset is first devoted to public service and the date of its retirement from service.

B. All public service corporations shall maintain adequate accounts and records related to depreciation practices, subject to the following:

1. Annual depreciation accruals shall be recorded.
2. A separate reserve for each account or functional account shall be maintained.
3. The cost of depreciable plant adjusted for net salvage shall be distributed in a rational and systemic manner over the estimated service life of such plant.
4. Public service corporations having less than $250,000 in annual revenue shall not be required to maintain depreciation records by separate accounts but shall make annual composite accruals to accumulated depreciation for total depreciable plant.

C. Requests for depreciation rate changes and methods for estimating depreciation rates shall be as follows:

1. If a public service corporation seeks a change in its depreciation rates, it shall submit a request for such as part of a rate application in accordance with the requirements of R14-2-103.
2. A public service corporation may propose any reasonable method for estimating service lives, salvage values, and cost of removal. The method shall be fully described in a request to change depreciation rates.
3. Data and analyses supporting the change shall be submitted, including engineering data and assessment of the impact and appropriateness of the change for ratemaking purposes.
4. Changed depreciation rates shall not become effective until the Commission authorizes such changes.

D. Upon the motion of any party or upon its own motion, the Commission may determine that good cause exists for granting a waiver from one or more of the requirements of this Section.

Historical Note

Former Section R14-2-102 repealed, former Section R14-2-127 renumbered as Section R14-2-102 without change effective March 2, 1982 (Supp. 82-2). Forward to the rule corrected as filed April 13, 1973 (Supp. 89-1). Section R14-2-102 repealed, new Section adopted effective April 9, 1992 (Supp. 92-2).

R14-2-103. Defining Filing Requirements in Support of a Request by a Public Service Corporation Doing Business in Arizona for a Determination of the Value of Property of the Corporation and of the Rate of Return Thereon, or in Support of Proposed Increased Rates or Charges

A. Purpose and definitions

1. Purpose: The purpose of this General Order is to define the specific financial and statistical information required to be filed with a request by a public service corporation doing business in Arizona for a determination of the value of the property of the corporation and of the rate of return to be earned thereon, with regard to proposed increased rates or charges. This General Order does not apply to the implementation of previously approved adjustment or escalation clauses.
2. Applicability of rules: These rules shall apply to all electric, gas, telephone, telegraph, water and private fire protection public service corporations under the jurisdiction of the Commission. These rules are applicable both to all filings made after the effective date of this General Order and to any rate proceeding pending on the effective date of this General Order in which the Commission has issued no final decision. These rules are not intended to prohibit utilities from filing additional schedules, exhibits

and other documents in which the Commission has issued no final decision. These rules are not intended to prohibit utilities from filing additional schedules, exhibits and other documents which may be material to the rate proceeding, nor are they intended to prohibit the Commission from considering such schedules, exhibits or other documents in making its determination. In pending proceedings, to the extent that the information required by this General Order is not included in the public service corporation's exhibits or is not otherwise in the record, such information shall be supplied as soon as possible unless a waiver is requested and granted pursuant to subsection (B)(5).

3. Definitions: Terminology used in this General Order is defined as follows:
   a. "Accounting method" -- the accounting method prescribed or recognized by the Commission.
   b. "Commission" -- The Arizona Corporation Commission.
   c. "Cost of service" -- The total cost of providing service to a defined segment of customers, as determined by the application of logical and generally accepted cost analysis and allocation techniques.
   d. "Department" -- A responsibility center within a combination utility where revenues and costs are accumulated by commodity or service rendered.
   e. "Depreciated original cost" -- The cost of property to the person first devoting it to public service, less the depreciation reserve, which shall include accrued depreciation and amortization calculated in accordance with General Order R14-2-102. Depreciated original cost shall not include any goodwill or going concern value, nor shall it include certificate value in excess of payment made or costs incurred in the initial acquisition thereof.
   f. "Exhibit" -- One or more schedules which support a rate filing or testimony in a rate proceeding.
   g. "Filing" -- An application and required schedules, exhibits or other documents filed by a public service corporation to initiate any proceeding enumerated in subsection (A)(1). For all Class A and B utilities and for Class C electric and gas utilities, the filing shall include direct testimony in support of the application. For Class C water, sewer, and telephone utilities and for all Class D and E utilities, the filing shall include a written description of the components of the application. Nothing in this Section shall be construed to prohibit a public service corporation, prior to making a filing, from giving the Commission informal pre-filing notice of its intent to make a filing. Such pre-filing notice would permit the Commission, on a tentative basis, to assign a hearing date and would permit agreement on an appropriate test year.
   h. "Original cost rate base" -- An amount consisting of the depreciated original cost, prudently invested, of the property (exclusive of contributions and/or advances in aid of construction) at the end of the test year, used or useful, plus a proper allowance for working capital and including all applicable pro forma adjustments.
   i. "Pro forma adjustments" -- Adjustments to actual test year results and balances to obtain a normal or more realistic relationship between revenues, expenses and rate base.
   j. "Projected year" -- The year immediately following the test year.
   k. "Projections" -- Estimate of future results of operations based upon known facts or logical assumptions concerning future events.
   l. "Prudently invested" -- Investments which under ordinary circumstances would be deemed reasonable and not dishonest or obviously wasteful. All investments shall be presumed to have been prudently made, and such presumptions may be set aside only by clear and convincing evidence that such investments were imprudent, when viewed in the light of all relevant conditions known or which in the exercise of reasonable judgment should have been known, at the time such investments were made.
   m. "Rate schedule" -- A schedule of rates and conditions for a specific classification of customer or for other specific services.
   n. "Reconstructed Cost New (RCND) Rate Base" -- An amount consisting of the depreciated reconstruction cost new of the property (exclusive of contributions and/or advances in aid of construction) at the end of the test year, used and useful, plus a proper allowance for working capital and including all applicable pro forma adjustments. Contributions and advances in aid of construction, if recorded in the accounts of the public service corporation, shall be increased to a reconstruction new basis.
   o. "Staff" -- The staff of the Commission or its designated representatives.
   p. "Test year" -- The one-year historical period used in determining rate base, operating income and rate of return. The end of the test year shall be the most recent practical date available prior to the filing.
   q. "Utilities" -- For purposes of the Section, utilities are electric, gas, telephone, water, sewer or any other that may be supplying service and/or commodities which in the future may be adjudged a public service corporation and under the jurisdiction of this Commission, are classified as follows:

	Annual Operating Revenue				
	Class A	B	C	D	E
Electric & Gas	Exceeding $5,000,000	$1,000,000 to $5,000,000	$250,000 to $999,000	$50,000 to $249,999	Less than $50,000
Water & Sewer	Exceeding $5,000,000	$1,000,000 to $5,000,000	$250,000 to $999,000	$50,000 to $249,999	Less than $50,000
Telephone	Exceeding $1,000,000	$250,000 to $1,000,000	$100,000 to $249,000	$25,000 to $99,999	Less than $25,000

Annual operating revenues are those gross utility operating revenues derived from jurisdictional operations, including the requested rate relief. A combination utility is a utility which provides more than one of the commodities or services enumerated in this subsection. For combination utilities, the annual operating revenue, including the requested rate relief, for the specific subsidiary, department, or operating division requesting the rate change shall be used for classification purposes.

r. "Working capital" -- A proper allowance for cash, materials and supplies and prepayments.

B. Filing requirements:

1. Information required from Class A, B, C and D utilities except for electric distribution cooperatives whose filing requirements are detailed in paragraph (3) of this Section: The information required to be prepared and submitted by Class A, B, C and D Utilities in conjunction with a filing is presented below. Corresponding schedule formats are contained in the Appendix of this General Order and denoted. These formats are not applicable to Class E utilities. The Appendix schedule formats A-1 through A-5 are a part of this General Order, and the Applicant's schedules should conform to these formats. All other Appendix schedule formats and descriptions are illustrative and the applicant's specific formats may vary from that suggested in the Appendix. The substantive information requested, both on the Appendix schedule and in the body of this General Order, however, must be contained on the applicant's schedules together with the titles and schedule numbers provided in the Appendix. Specific information items requested on the Appendix schedules may be omitted without formal waiver, from the filing where it is evident that said items are not applicable to the applicant's business. The instructions and notes contained on the Appendix schedules shall be followed where applicable. Reconstruction Cost New Depreciated information not filed by the applicant shall be deemed waived.

Information	Filing Required by	Appendix Schedule Reference(s)
A. Summary Information:		
1. A summary of the increase in revenue requirements and the spread of the revenue increase by customer classification.	All classes	A-1
2. A summary of the results of operations for the test year and for the test year and the two fiscal years ended prior to the end of the test year, compared with the projected year.	All classes	A-2
3 A summary of the capital structure for the test year and the two fiscal years ended prior to the end of the test year, compared with the projected year.	Classes A & B	A-3
4. Construction expenditures and gross utility plant in service for the test year and the two fiscal years ended prior to the end of the test year, compared with the projected year.	All classes	A-4
5. A summary of changes in financial position for the test year and the two fiscal years ended prior to the end of the test year, compared with the projected year.	Classes A & B	A-5
B. Rate Base Information:		
1. A schedule showing the elements of original cost and RCND rate bases.	All classes	B-1
2. A schedule listing pro forma adjustments to gross plant in service and accumulated depreciation for the original cost rate base.	All classes	B-2
3. A schedule showing pro forma adjustments to gross plant in service and accumulated depreciation for the RCND rate base.	All classes	B-3
4. A schedule demonstrating the determination of reproduction cost new less depreciation at the end of the test period.	All classes	B-4
5. A schedule showing the computation of working capital allowance.	All classes	B-5
C. Test Year Income Statements:		
1. A test year income statement, with pro form adjustments.	All classes	C-1
2. A schedule showing the detail of all pro forma adjustments.	All classes	C-2
3. A schedule showing the incremental taxes and other expenses on gross revenues and the computation of an incremental gross revenue conversion factor.	All classes	C-3
D. Cost of Capital Information:		
1. A schedule summarizing the elements in the capital structure at the end of the test year and the projected year, their related costs and the computation of the total cost of capital.	All classes	D-1
2. A schedule showing the detail of long-term and short-term debt at the end of the test year and the projected year and their total cost.	Classes A & B	D-2
3. A schedule showing the detail of preferred stock at the end of the test year and the projected year, and their total cost.	Classes A & B	D-3
4. A schedule summarizing conclusions of the required return on the common equity as of the end of the test year and the projected year.	Classes A & B	D-4
E. Financial Statements and Statistical Data:		
1. Comparative balance sheets for the end of the test year and the two fiscal years ended prior to the end of the test year.	All classes	E-1
2. Comparative income statements for the test year and the two fiscal years ended prior to the end of the test year.	All classes	E-2
3. Comparative statements of changes in financial position for the test year and the two fiscal years ended prior to the end of the test year.	Classes A & B	E-3
4. Statements of changes in stockholder's equity for the test year and the two fiscal years ended prior to the end of the test year.	Classes A & B	E-4
5. A comparative schedule showing by detail account number, utility plant balances at the end of the test year and the end of prior fiscal year.	All classes	E-5

	Information	Filing Required by	Appendix Schedule Reference(s)
6.	Comparative departmental statements of operating income for the test year and the two fiscal years ended prior to the end of the test year.	All classes of combination utilities	E-6
7.	Comparative operating statistics on customers, consumption, revenues, and expenses for the test year and the two fiscal years ended prior to the end of the test year.	All classes	E-7
8.	A comparative schedule of all significant taxes charged to operations for the test year and the two fiscal years ended prior to the end of the test year.	All classes except Class D	E-8
9.	Audited financial statements, if available, for the test year and the two fiscal years ended prior to the end of the test year. If the financial statements have not been audited, notes to the financial statements should be provided to indicate accounting method, depreciation lives and methods, income tax treatment and other important disclosures.	All classes	E-9
F.	Projections and Forecasts:		
1.	A projected income statement for the projected year compared with actual test year results, at present rates and proposed rates.	All classes	F-1
2.	Projected changes in financial position for the projected year compared with the test year, at present rates and proposed rates.	Classes A & B	F-1
3.	Projected annual construction requirements, by property classification, for one to three years subsequent to the test year, compared with the test year.	Classes A & B 3 years Classes C & D 1 year	F-3
4.	Important assumptions used in preparing forecasts and projections.	All classes	F-4
G.	Cost of Service Information		
	A utility shall submit cost of service analyses and studies if all of the following conditions prevail:		
1.	The utility is in a segment of the utility industry that recognizes cost of service studies as important tools for rate design.		
2.	Costs incurred by the utility are likely to vary significantly from one defined segment of customers to another.		
	A historical accounting period other than the test year may be used for cost of service purposes provided that customer mix in the historical period used is representative of the test year. When a cost of service analysis is required, the following information shall be submitted:		
1.	Schedule showing rates of return by customer classification at present and proposed rates.	Classes A, B and C if applicable	G-1 G-2
2.	Schedules showing the approach used in allocating or assigning plant and expenses to classes of service and defined functions.	Classes A, B and C if applicable	G-3 G-4 G-5 G-6
3.	Schedules showing the development of all allocation factors used in the all allocation factors used in the cost of service study.	Classes A, B and C if applicable	G-7
H.	Effect of Proposed Rate Schedules:		
1.	A comparison of revenues by customer classification or other classification of revenues for the test year, at present and proposed rates.	All classes	H-1
2.	A comparison of revenues by class of service and by rate schedule for the test year, at present and proposed rates.	Classes A & B	H-2
3.	A comparison of present and proposed rate schedules or representative rate schedules.	Class A representative schedules; Classes B, C and D - all schedules	H-3
4.	Typical bill analysis	All classes	H-4
5.	Bill count	All classes	H-5

2. Information required from Class E Utilities: The information required to be prepared and submitted by a Class E Utility in support of a filing is as follows:
   a. A statement of income for the test year similar in format to Schedule C-1 or E-2.
   b. A balance sheet as of the end of the test year similar in format to Schedule E-1.
   c. Utility plant account balances at the end of the test year similar in format to Schedule E-5.
   d. An estimate of new investment in utility plant to be added in the projected year.
   e. A schedule of current rates and proposed rates and the additional revenues to be derived from the proposed rates.

   The appendix schedules shall be used as guides in presenting the information specified in this paragraph.

3. Information required from distribution electric cooperatives: The information to be prepared and submitted in support of a filing is as follows:
   a. Rural Electrification Association (REA) Form 7 (pages 1 and 2, revised 10-86; pages 3 through 7, revised 12-83), prepared in accordance with "Instructions for the Preparation of the Financial and Statistical Report, REA Form 7" and REA Bulletin 181-1 "Uniform System of Accounts prescribed for electric borrowers of the Rural Electrification Administration", dated January 1, 1978, all of which are incorporated by reference and on file in the Office of the Secretary of State and the most recent audit report for the last fiscal year information contained in Form 7.
   b. If a distribution electric cooperative wishes to have the Reconstruction Cost New value of its utility plant considered in the determination of its Fair

Value, the cooperative shall, in addition, submit a schedule similar to Part E of REA Form 7, substituting appropriate Reconstruction Cost New information for Original Cost information required by Part E.

c. A bill count for each rate schedule in the format of Schedule H-5.

d. A schedule comparing revenues by customer classification for the test year, at present and proposed rates, in the format of Schedule H-1.

e. A schedule listing long-term debt obligations.

f. A schedule of times interest earned ratios (TIER) for each month of the test year, the prior year, and one projected year in the following format:

	Test Year Ending	Prior Year	Projected Year
January			
February			
March			
April			
May			
June			
July			
August			
September			
October			
November			
December			

g. Nothing in this rule shall be construed to prevent a distribution electric cooperative from filing any additional schedules which it may wish to have considered by the Commission. If applicable, formats suggested in the Appendix schedule formats should be used.

4. Separation of nonjurisdictional properties, revenues and expenses associated with the rendition of utility service not subject to the jurisdiction of the Commission must be identified and properly separated in a recognized manner when appropriate. In addition, all nonutility properties, revenues and expenses shall likewise be segregated. If nonutility operations are significant, appropriate allocations of capital should be made.

5. Additional information: The Commission may request that supplementary information in addition to that specifically required in subsection (B)(1) and (2) of this General Order be submitted by a utility either prior to or after a filing.

6. Waiver of requirements: Either prior to the filing or within 15 days from the date thereof, the Commission, after determining the existence of reasonable cause, by order may waive compliance with any or all of the requirements of this General Order. Such Waiver will be granted only upon written petition to the Commission. In said petition, the utility must demonstrate that the requirements sought to be waived are either not applicable to the rate matter which is the subject of the filing or that compliance therewith would place an undue burden on the utility.

7. Notice of sufficiency of a utility's filing: The staff will review each filing to ascertain whether it is in compliance with the provisions of this Section, including the instructions contained in paragraph (9) of this subsection or in forms prescribed by the Commission. Within 30 days after receipt of the utility's filing, the staff shall file with Docket Control and serve on the utility a notice that the filing either is in compliance with the Commission's requirements or is deficient. A notice of deficiency must include an explanation of the defect found. If the staff fails to file any notice within the 30-day period, the utility's filing shall be deemed accepted as of the 31st day.

8. Production of out-of-state books and records: A utility shall produce or deliver in this state all or any of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.

9. General filing instructions: In preparing the information specified in subsection (B)(1) and (2) of this General Order, the following instructions are applicable:

a. All schedules shall be mathematically correct and properly cross-referenced. The applicant shall ascertain that adequate detail has been provided to explain and support all significant items and amounts.

b. Amounts may be rounded, where appropriate, to the nearest thousand dollars for Class A utilities, to the nearest hundred dollars for Class B and C utilities and to the nearest dollar for Class D and E utilities.

c. Except for Class E utilities, all schedules shall be numbered as provided in the Appendix. Schedules prepared by all classes of utilities shall contain a date -- generally the preparation date or the filing date.

d. Headings on schedules shall clearly indicate the nature and intent of the schedule and the dates or time periods covered.

At the date of filing, a minimum of ten complete sets of the applicant's schedules and exhibits shall be provided to the Commission.

10. Staff assistance in preparing a filing: The staff will, consistent with other workload requirements, be available to provide assistance to an applicant in preparing a filing.

11. Timing of Commission action on a filing:

a. For all Class A and B utilities and for Class C electric and gas utilities, the Hearing Officer shall issue a procedural schedule in the rate case within 30 days from the date that a filing is accepted pursuant to paragraph (7) of this subsection.

b. Unless otherwise ordered by the Commission, the staff shall file its Staff Report and/or testimony within the following number of days from the date that a filing is accepted pursuant to paragraph (7) of this subsection:

i. For Class A utilities, within 180 days.
ii. For Class B utilities, within 180 days.
iii. For Class C utilities, within 135 days.
iv. For Class D utilities, within 75 days.
v. For Class E utilities, within 60 days.

c. For all Class A utilities, the Hearing Officer shall issue a recommended order in the rate case at least 20 days prior to the last regularly scheduled open meeting in the time period calculated pursuant to subparagraph (d) of this paragraph. For all other utilities, the Hearing Officer shall issue a recommended order at least ten days prior to the last regularly scheduled open meeting in the time period calculated pursuant to subparagraph (d) of this paragraph.

d. The Commission shall issue a final order that disposes of all issues involved in all parts or phases of the proceeding within the following number of days from the date that a filing is accepted pursuant to paragraph (7) of this subsection:

i. For Class A utilities, within 360 days.

ii. For Class B utilities, within 360 days.
iii. For Class C utilities, within 270 days.
iv. For Class D utilities, within 180 days.
v. For Class E utilities, within 120 days.

e. Upon motion of any party to the matter or on its own motion, the Commission or the Hearing Officer may determine that the time periods prescribed by subparagraph (d) of this paragraph should be extended or begin again due to:
   i. Any amendment to a filing which changes the amount sought by the utility or substantially alters the facts used as a basis for the requested change in rates or charges; or
   ii. An extraordinary event, not otherwise provided for by this subsection.

f. If a hearing is conducted to evaluate a filing, the time periods prescribed by subparagraph (a) of this paragraph shall be extended three days for each one day of actual hearing on the merits of the filing.

g. The time periods prescribed by subparagraph (a) of this paragraph shall not be applicable to any filing submitted by a utility which has more than one rate application before the Commission at the same time.

h. In the event no final order has been issued within the time periods specified in this paragraph, the utility may request any time thereafter that the Commission schedule a hearing to consider putting new rates or charges into effect, on an interim basis subject to refund, for all consumption thereafter. To put such rates or charges into effect, the utility would be required to file a bond to be approved by the Commission payable to the state of Arizona in such amount and with sufficient security to insure prompt payment of any refunds to the persons entitled thereto, including an interest rate as determined by the Commission not to exceed the maximum interest otherwise allowable by law, if the rates or charges so put into effect are finally determined by the Commission to be excessive. The utility may substitute for the bond other arrangements satisfactory to the Commission for the protection of the parties involved. The Commission shall issue a final order on a request for interim rates within 60 days plus the number of interim hearing days from the filing date of the request.

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
RATE APPLICATION FILING REQUIREMENTS

APPENDIX

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
INDEX OF SCHEDULES

Schedule No.	Title	Filing Required By
A. Summary Schedules		
A-1	Computation of Increase in Gross Revenue Requirements	All classes
A-2	Summary Results of Operations	All classes
A-3	Summary of Capital Structure	Classes A & B
A-4	Construction Expenditures and Gross Utility Plant in Service	All classes
A-5	Summary Changes in Financial Position	Classes A & B
B. Rate Base Schedules		
B-1	Summary of Original Cost and RCND Rate Base Elements	All classes
B-2	Original Cost Rate Base Pro forma Adjustments	All classes
B-3	RCND Rate Base Pro forma Adjustments	All classes
B-4	RCND by Major Plant Accounts	All classes
B-5	Computation of Working Capital	All classes
C. Test Year Income Statements		
C-1	Adjusted Test Year Income Statement	All classes
C-2	Income Statement Pro forma Adjustments	All classes
C-3	Computation of Gross Revenue Conversion Factor	All classes
D. Cost of Capital		
D-1	Summary Cost of Capital	All classes
D-2	Cost of Long Term and Short Term Debt	Classes A & B
D-3	Cost of Preferred Stock	Classes A & B
D-4	Cost of Common Equity	Classes A & B
E. Financial Statements and Statistical Schedules		
E-1	Comparative Balance Sheets	All classes
E-2	Comparative Income Statements	All classes
E-3	Comparative Statement of Changes in Financial Position	Classes A & B
E-4	Statement of Changes in Stockholders' Equity	Classes A & B
E-5	Detail of Utility Plant	Classes A & B
E-6	Comparative Departmental Operating Income Statements	All classes of combination utilities
E-7	Operating Statistics	All classes
E-8	Taxes Charged to Operations	Classes, A, B & C
E-9	Notes to Financial Statements	All classes

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX

INDEX OF SCHEDULES
(Continued)

Schedule No.	Title	Filing Required By
F. Projections and Forecasts		
F-1	Projected Income Statements - Present and Proposed Rates	All classes
F-2	Projected Charges in Financial Position - Present and Proposed Rates	Classes A & B
F-3	Projected Construction Requirements	Classes A & B - (3 years) Classes C & D - (1 year)
F-4	Assumptions Used in Developing Projections	All classes
G. Cost of Service Analyses		
G-1	Cost of Service Summary - Present Rates	Special requirement
G-2	Cost of Service Summary - Proposed Rates	Special requirement
G-3	Rate Base Allocation to Classes of Service	Special requirement
G-4	Expense Allocation to Classes of Service	Special requirement
G-5	Distribution of Rate Base by Function	Special requirement
G-6	Distribution of Expenses by Function	Special requirement
G-7	Development of Allocation Factors	Special requirement
H. Effect of Proposed Tariff Schedules		
H-1	Summary of Revenues by Customer Classification - Present and Proposed Rates	All classes
H-2	Analysis of Revenues by Detailed Class of Service - Present and Proposed Rates Classes	Classes A & B
H-3	Changes in Representative Rate Schedules	Class A, representative schedules; Classes B, C, & D all schedules
H-4	Typical Bill Analysis	All classes
H-5	Bill Count	All classes

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX A.
SUMMARY SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: A-1 Title: Computation of Increase in Gross Revenue Requirements.
Explanation: Schedule showing computation of increase in gross revenue requirements and spread of revenue increase by customer classification.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

		Original Cost RCND	
1.	Adjusted Rate Base	$ _____ (a)	$ _____ (a)
2.	Adjusted Operating Income	$ _____ (b)	$ _____ (b)
3.	Current Rate of Return	_____ %	_____ %
4.	Required Operating Income	$ _____	$ _____
5.	Required Rate of Return _____ %	_____ %	
6.	Operating Income Deficiency (4 - 2)	$_____	
7.	Gross Revenue Conversion Factor	_____(c)	
8.	Increase in Gross Revenue Requirements (6 x 7)	$_____	

Customer Classification	Projected Revenue Increase Due to Rates	% Dollar Increase
Residential	$	% (d)
	_____	_____
	$_____	_____ %

Note: For combination utilities, the above information should be presented in total and by department.

Supporting Schedules:
(a) B-1 (c) C-3
(b) C-1 (d) H-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: A-2

Title: Summary Results of Operations

Explanation:
Schedule showing comparative operating results for the test year and the two fiscal years ended prior to the end of the test year, compared with the projected year.

Required For:

All Utilities	[x]	Special Reqmt.	[ ]
Class A	[ ]		
Class B	[ ]		
Class C	[ ]		
Class D	[ ]		

	Prior Years	Test Year		Present			Projected Year	
		Y/E __	Y/E __	Actual	Adjusted	Rates	Proposed Rates	
	Description	(a)	(a)	(a)	(b)	(c)		(c)
1.	Gross Revenues							
2.	Revenue Deductions & Operating Expenses	_____	_____	_____		_____	_____	
3.	Operating Income	$_____	$_____	$_____	$_____	$_____	$_____	
4.	Other Income and Deductions							
5.	Interest Expense	_____	_____	_____		_____	_____	
6.	Net Income	$_____	$_____	$_____		$_____	$_____	$_____
7.	Earned Per Average Common Share*							
8.	Dividends Per Common Share*							
9.	Payout Ratio*							
10.	Return on Average Invested Capital							
11.	Return on Year End Capital							
12.	Return on Average Common Equity							
13.	Return on Year End Common Equity							
14.	Times Bond Interest Earned - Before Income Taxes							
15.	Times Total Interest and Preferred Dividends Earned - After Income Taxes							

Supporting Schedules:
(a) E-2
(b) C-1
(c) F-1

*Optional for projected year

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: A-3

Title: Summary of Capital Structure

Explanation:
Schedule showing comparative capital structures for the last three historical years, including the test year, and the projected year.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	x		
Class B	x		
Class C	☐		
Class D	☐		

Description	Prior Years At ____(a)	Prior Years At ____(a)	Test Year At ____(a)	Test Year At ____(c)	Projected Year
1. Short-Term Debt					
2. Long-Term Debt					
3. TOTAL DEBT$_____	$_____	$_____			$_____
4. Preferred Stock					
5. Common Equity	_____	_____	_____		_____
6. Total Capital	$_____	$_____	$_____		$_____
Capitalization Ratios:					
7. Short-Term Debt					
8. Long-Term Debt					
9. TOTAL DEBT_____%	_____%	_____%	_____%		
10. Preferred Stock					
11. Common Equity	_____	_____	_____		_____
	100%	100%	100%		100%
12. Weighted Cost of Short-Term Debt	_____%	_____%	_____%		_____%
13. Weighted Cost of long-Term Debt	_____%	_____%	_____%		_____%
14. Weighted Cost of Senior Capitol	_____%	_____%	_____%		_____%

Supporting Schedules:
(a) E-1
(b) D-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: A-4

Title: Construction Expenditures and Gross Utility Plant in Service

Explanation:
Schedule showing construction expenditures, plant placed in service and gross utility plant in service for the test year and the two fiscal years ended prior to the end of the test year, compared with the projected year.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Year	Construction Expenditures (a)	Net Plant Placed In Service (b)	Gross Utility Plant In Service
1. 19 ____	$	$	$
2. 19 ____			
3. Test Year			
4. Projected Year			
5. Projected _____ *			
6. Projected _____*			

* Required only for Class A and B Utilities

NOTE: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:
(a) F-3
(b) E-5

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: A-5

Title: Summary Changes In Financial Position

Explanation:
Schedule showing sources and application of funds in summary format.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	x		
Class B	x		
Class C	☐		
Class D	☐		

	Description	Prior Years (a) Y/E _____	Y/E _____	Test Year (a) Y/E _____	Projected Present Rates (b)	Rates (b)	Proposed
	Sources of Funds:						
1.	Operations	$	$	$	$		$
2.	Outside Financing	_____	_____			_____	
3.	Total Funds Provided	$_____	$_____	$_____	$_____	$_____	
	Application of Funds:						
4.	Construction Expenditures	$_____	$_____	$_____	$_____	$_____	
5.	Other	_____	_____			_____	
6.	Total Funds Applied$_____	$_____	$_____	$_____	$_____		

Supporting Schedules:
(a) E-3
(b) F-2

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX B
RATE BASE SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: B-1 Title: Summary of Original Cost and RCND Base Elements
Explanation: Schedule showing elements of adjusted original cost and RCND rate bases.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

	Original Cost Rate Base*		Rate Base*	RCND
1. Gross Utility Plant in Service	$			
2. Less: Accumulated Depreciation				
3. Net Utility Plant in Service	$	(a)	$	(b)
Less:				
4. Customers' Advances for Construction		(c)		(c)
5. Contributions in Aid of Construction		(c)		(c)
Add:				
6. Allowance for Working Capital		(d)		(d)
7. Total Rate Base	$	(e)		$ (e)

* Including pro forma adjustments

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:		Recap Schedules:
(a) B-2	(d) B-5	(e) A-1
(b) B-3		
(c) E-1		

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: B-2

Title: Original Cost Rate Base Pro forma Adjustments

Explanation:
Schedule showing pro forma adjustments to gross plant in service and accumulated depreciation for the original cost rate base.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

		Actual at End of Test Year (a)	Pro forma Adjustments A	B	Z	Adjusted at End of Test Year (b)
1.	Gross Utility Plant in Service	$	$	$	$	$
2.	Less: Accumulated Depreciation	_____	_____	_____	_____	_____
3.	Net Utility Plant in Service	$ _____	$ _____	$ _____	$_____	$ _____

All pro forma adjustments should be adequately explained on this schedule or on attachments hereto.

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:
(a) E-1

Recap Schedules:
(b) B-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: B-3

Title: RCND Rate Base Pro forma Adjustments

Explanation:
Schedule showing pro forma adjustments to gross plant in service and accumulated depreciation for the RCN rate base.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

		Actual at End of Test Year (a)	Pro forma Adjustments A	B	Z	Adjusted at End of Test Year (b)
1.	Gross Utility Plant in Service	$	$	$	$	$
2.	Less: Accumulated Depreciation	_____	_____	_____	_____	_____
3.	Net Utility Plant in Service	$ _____	$ _____	$ _____	$ _____	$ _____

All pro forma adjustments should be adequately explained on this schedule or on attachments hereto.

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:
(a) B-4 (b)

Recap Schedules:
B-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: B-4

Title: RCND by Major Plant Accounts

Explanation:
Schedule showing the determination of Reproduction Cost New Less Depreciation at end of Test Period.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Plant Account	Description	RCN	Condition Percent	RCND
	Total (a)			

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:		Recap Schedules:
RCND Study	a)	B-3

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: B-5 Title: Computation of Working Capital
Explanation: Schedule showing computation of working capital allowance.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

		Amount
1.	Cash working capital	$
2.	Materials and Supplies Inventories	(a)
3.	Prepayments	_____(a)
4.	Total Working Capital Allowance	$ _____(b)

NOTES:

1. Adequate detail should be provided to determine the bases for the above computations.

2. Adjusted test year operating expenses should be used in computing cash working capital requirements.

3. Combination utilities should compute working capital allowances for each department.

Supporting Schedules:		Recap Schedules:
(a) E-1	b)	B-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX C.
TEST YEAR INCOME STATEMENTS

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: C-1 Title: Adjusted Test Year Income Statement
Explanation: Schedule showing statement of income for the test year, including pro forma adjustments.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

Description	(a) Actual For The Test Year Ended	Pro forma Adjustments	Test Year Results After Pro forma Adjustments
Revenues:	$	$	$
Expenses:			
Operating Income	_____ $ _____	_____ $ _____	_____ $ _____ (c)
Net Income	_____ $ _____	_____ $ _____	_____ $ _____

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:		Recap Schedules:
(a) E-2	(c)	A-1
(b) C-2		

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: C-2

Title: Income Statement Pro forma Adjustments

Explanation:
Schedule itemizing pro forma adjustments to the test year income statement.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Description	A	B	Z	Total (a) Adjustments
Revenues:	$	$	$	$
Expenses:				
Operating Income				
Net Income				

Note: All pro forma adjustments should be adequately explained on this schedule or on attachments thereto.

Supporting Schedules:

Recap Schedules:
(a) C-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: C-3

Title: Computation of Gross Revenue Conversion Factor

Explanation:
Schedule showing incremental taxes on gross revenues and the development of a gross revenue conversion factor.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Description	Percentage of Incremental Gross Revenues
Federal Income Taxes	%
State Income Taxes	
Other Taxes and Expenses: (Specify):	
	_____
Total Tax Percentage	_____%

Operating Income % = 100% - Tax Percentage

$$\frac{1}{\text{Operating Income \%}} = \text{Gross Revenue Conversion Factor}$$

Note: All tax percentages shall include the effect of other taxes upon the incremental rate. The applicant may use other formulas in developing the conversion factor.

Supporting Schedules:

Recap Schedules:
A-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX D.
COST OF CAPITAL

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: D-1

Title: Summary Cost of Capital

Explanation:
Schedule showing elements of capital structure and the related cost.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

	End of Test Year				End of Projected Year			
Invested Capital	Amount	%	Cost Rate (e)	Com-posite Cost	Amount	%	Cost Rate (e)	Com-posite Cost
Long-Term Debt (a)	$		%	%	$		%	%
Preferred Stock (b)								
Common Equity (c)								
Short Term Debt (a)								
Deferrals (d)			-0-				-0-	
	$	100%	%	%	$	100%	%	%

Supporting Schedules:
(a) D-2
(b) D-3
(c) D-4
(d) E-1

Recap Schedules:
(e) A-3

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: D-2

Title: Cost of Long-Term and Short-Term Debt

Explanation:
Schedule showing computation of cost of long and short term debt.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	x		
Class B	x		
Class C	☐		
Class D	☐		

	End of Test Year		End of Projected Year	
Description of Debt	Outstanding	Annual Interest	Outstanding	Annual Interest*
Long-Term:	$	$	$	$
	_____	_____	_____	_____
Total Long-Term (a)	$_____ (b)	$_____	$_____	$_____
Cost Rate (a)	_____ %		_____ %	
Short Term:	$	$	$	$
	_____	_____	_____	_____
Total Short-Term (a)	$_____ (b)	$_____	$_____	$_____
Cost Rate (a)	_____ %		_____ %	

* Including amortization of discount, premium and expense.

Supporting Schedules:
(b) E-1

Recap Schedules:
(a) D-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: D-3

Title: Cost of Preferred Stock

Explanation:
Schedule showing computation of cost of preferred stock.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	x		
Class B	x		
Class C	☐		
Class D	☐		

	End of Test Year			End of Projected Year		
Description of Issue	Shares Outstanding	Amount $	Dividend Requirement $	Shares Outstanding	Amount $	Dividend Requirement $
	_____	_____	_____	_____	_____	_____
Total (a)	_____	$ _____ (b)	$ _____		$ _____	$ _____
Cost Rate (a)		_____ %			_____ %	

Supporting Schedules:
(b) E-1

(a)

Recap Schedules:
D-1

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: D-4 Title: Cost of Common Equity
Explanation: Schedule summarizing conclusions on the required rate of return on common equity as of the end of the test year and the projected year or exhibits in support thereof.	Required For: All Utilities [ ] Special Reqmt. [ ] Class A [x] Class B [x] Class C [ ] Class D [ ]

Supporting Schedules:
Special Studies

Recap Schedules:
(D-1)

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX E.

FINANCIAL STATEMENTS AND STATISTICAL SCHEDULES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: E-1 Title: Comparative Balance Sheet
Explanation: Schedule showing comparative balance sheets at the end of the test year and the two fiscal years ended prior to the test year.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

ASSETS		Test Year At _____	Prior Year At _____	Prior Year At _____
Property, plant & equipment:	(a)	$	$	$
Current Assets:				
		$ _____	$ _____	$ _____
LIABILITIES and STOCKHOLDERS' EQUITY				
Capitalization:	(b)	$	$	$
Current Liabilities:				
		$ _____	$ _____	$ _____

Supporting Schedules:
(a) E-5 (b)

Recap Schedules:
A-3

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-2

Title: Comparative Income Statements

Explanation:
Schedule showing comparative income statements for the test year and the two fiscal years ended prior to the test year.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

	Test Year Ended_____	Test Year Ended_____	Test Year Ended_____
Revenues: (a)	$	$	$
Operating Expenses: (a)			
Current Assets:			
Operating Income (a)	_____ $	_____ $	_____ $
Other income and deductions:	_____	_____	_____
Interest			
Net Income	_____ $ _____	_____ $ _____	_____ $ _____
	_____	_____	_____
Preferred Dividends	_____	_____	_____
Earnings Available for Common Stock	_____	_____	_____
Earnings Per Share of Average Common Stock Outstanding	_____	_____	_____

Supporting Schedules:
(a) E-6

Recap Schedules:
A-2

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-3

Title: Comparative Statement of Changes in Financial Position

Explanation:
Schedule showing comparative changes in financial position for the test year and the two years ended prior to the test year.

Required For:

All Utilities	☐	Special Reqmt. ☐
Class A	x	
Class B	x	
Class C	☐	
Class D	☐	

	Test Year Ended_____	Test Year Ended_____	Test Year Ended_____
Source of Funds	$	$	$
From Operations:			
Financing:			
Total Funds Provided	_____ $_____ _____	_____ $_____ _____	_____ $_____ _____
Application of Funds:	$	$	$
Construction Expenditures			
Dividends			
Other Items:			
	_____ $ _____	_____ $ _____	_____ $ _____

Supporting Schedules:

Recap Schedules:
A-5

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-4

Title: Statement of Change in Stockholders' Equity

Explanation:
Schedule showing changes in stockholders' equity for the test year and the two years ended prior to the test year.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	x		
Class B	x		
Class C	☐		
Class D	☐		

	Preferred Shares	Stock Amount	Common Shares	Stock Amount	Additional Paid-In Capital	Retained Earnings
Balance, Jan. 1, 19 ___		$		$	$	$
Net Earnings						
Cash Dividends-Preferred						
Cash Dividends-Common						
Preferred Stock Issued:						
Common Stock Issued:	_____	_____ $	_____	_____ $	_____ $	_____ $
Balance, Dec. 31, 19 ___	_____	$ _____	_____	$ _____	$ _____	$ _____
Balance, Dec. 31, 19 ___	_____	$ _____	_____	$ _____	$ _____	$ _____
Balance, Dec. 31, 19 ___ (End of Test Year)	_____	$ _____	_____	$ _____	$ _____	$ _____

Supporting Schedules:

Recap Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-5

Title: Detail of Utility Plant

Explanation:
Schedule showing utility plant balance, by detailed account number, at the end of the test year and the end of the prior fiscal year.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Account Number	Description	End of Test Year At ____	Net Additions	End of Prior Year At ____
	Production Plant-Steam:			
XXX	Land & Land Rights	$	$	$
XXX	Structures and Improvements			
	Total Plant in Service	$ _____	_____	_____
	Accumulated Depreciation	$ _____	$ _____	$ _____
	Net Plant in Service	$	$	$
	Construction Work In Progress	_____	_____	_____
	Total Net Plant	$ _____	$ _____	$ _____

Note: For combination utilities, the above information should be presented by department.

Supporting Schedules:

Recap Schedules:
E-1
A-4

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-6

Title: Comparative Departmental Operating Income Statements

Explanation:
Schedule showing comparative departmental statements of operating income for the test year and the two fiscal years ended prior to the test year.

Required For:

	All Utilities	☐	Special Reqmt. ☐
x		☐	All classes of Combination Utilities
	Class A	☐	
	Class B	☐	
	Class C	☐	

Department _____

	Test Year Ended _____	Prior Year Ended _____	Prior Year Ended _____
Revenues:	$	$	$
Residential			
Total Revenues	$	$	$
Operating Expenses*:			
Total Operating Expenses	$	$	$
Operating Income	$_____	$_____	$_____

* Including allocation of general and administrative expenses.

Supporting Schedules:

Recap Schedules:
E-2

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-7

Title: Operating Statistics

Explanation:
Schedule showing key operating statistics in comparative format, for the test year and the two fiscal years ended prior to the test year.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Electric Statistics	Test Year Ended_____	Prior Year Ended_____	Prior Year Ended_____
KWH Sales-By Class of Service			
Avg. No. of Customers-By Class of Service			
Avg. KWH Use-By Class of Service			
Avg. Annual Revenue Per Residential Customer			
KWH Production Expense			
KWH Trans. Expense			
Gas Statistics:			
MCF or Therm Sales-By Class of Service			
Avg. No. of Customers-By Class of Service			
Avg. MCF or Therm Use-By Class of Service			
Avg. Annual Revenue Per Residential Customer			
Production Expense Per MCF or Therm			
Storage and Trans. Expense Per MCF or Therm			
Water Statistics:			
Gallons Sold-By Class of Service			
Avg. No. of Customers-By Class of Service			
Avg. Annual Gallons Per Residential Customer			
Avg. Annual Revenue Per Residential Customer			
Pumping Cost Per 1,000 Gallons			
Telephone Statistics:			
Main Telephones			
Company Telephones			
Revenue Per Main Telephone			
Messages			
Net Plant in Service Per Telephone			

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: E-8

Title: Taxes Charged to Operations

Explanation:
A schedule showing all significant taxes charged to operations for the test year and the two fiscal years ended prior to the test year.

Required For:

All Utilities	[ ]	Special Reqmt. [ ]
Class A	[x]	
Class B	[x]	
Class C	[x]	
Class D	[ ]	

Description	Test Year Ended _____	Prior Year Ended _____	Prior Year Ended _____
Federal Taxes:	$	$	$
	$	$	$
State Taxes	$	$	$
	$	$	$
Local Taxes:	$	$	$
	$	$	$
Total Taxes	$ _____	$ _____	$ _____

NOTE: For combination utilities, the above should be presented in total and by department.

Supporting Schedules:

Recap Schedules:

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: E-9 Title: Notes to Financial Statements
Explanation: Disclosure of important facts pertaining to the understanding of the financial statements.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

Disclosures should include, but not be limited to the following:

1. Accounting method.

2. Depreciation lives and methods employed by major classifications of utility property.

3. Income tax treatment - normalization or flow through.

4. Interest rate used to charge interest during construction, if applicable.

Supporting Schedules: Recap Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX F.
PROJECTIONS AND FORECASTS

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: F-1 Title: Projected Income Statements - Present and Proposed Rate
Explanation: Schedule showing an income statement for the projected year, compared with actual test year results, at present rates proposed rates.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

		Projected Year	
	Actual Test Year Ended _____(a)	At Present Rates Year Ended_____ (b)	At Proposed Rates Year Ended _____ (b)
Revenues:	$	$	$
Operating Expenses:	_____	_____	_____
Operating Income	$	$	$
Other Income & Deductions:			
Interest	_____	_____	_____
Net Income	$ _____	$ _____	$ _____
	_____	_____	_____
Earnings per share of average Common Stock Outstanding	$ _____	$ Optional	$ Optional
% Return on Common Equity	_____ %	_____ %	_____ %

Supporting Schedules:
(a) E-2 (b) Recap Schedules: A-2

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: F-2

Title: Projected Changes In Financial Present and Proposed Rates

Explanation:
Schedule showing projected changes in financial position for projected year compared with the test year, at present and proposed rates.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	☒		
Class B	☒		
Class C	☐		
Class D	☐		

	Test Year Ended (a)	Projected Year At Present Rates Year Ended (b)	Projected Year At Proposed Rates Year Ended (b)
Source of Funds:	$	$	$
Total Funds Provided	$ _____	$ _____	$ _____
Application of Funds:			
Total Funds Provided	$ _____	$ _____	$ _____

Details of Financing:

Changes in Short-term Debt:

Changes in Long-term Debt:

Changes in Preferred Stock:

Changes in Common Equity:

Supporting Schedules:
(a) E-3
(c) F-3

(b)

Recap Schedules:
A-5

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: F-3

Title: Projected Construction Requirements

Explanation:
Schedule showing projected annual construction requirements, by property classification, for one to three years subsequent to the test year compared with the test year.

Required For:

All Utilities	[ ]	Special Reqmt. [ ]
Class A	[x]	3 yrs. projected
Class B	[x]	
Class C	[x]	1 yrs. projected
Class D	[x]	

Property Classification	Actual Test Year Ended _____	Projected Test Year Ended _____	Projected Test Year Ended _____	Projected Test Year Ended _____
Production Plant	$	$	$	$
Transmission Plant				
Total Plant (a)	$ _____	$ _____	$ _____	$ _____

NOTE: For combination utilities, the above should be presented by department.

Supporting Schedules:

Recap Schedules:
(a) F-2 & A-4

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: F-4 Title: Assumptions Used in Developing Projection
Explanation: Documentation of important assumptions used in preparing forecasts and projections.	Required For: All Utilities [x] Special Reqmt. [ ] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

Important assumptions used in preparing projections should be explained.

Areas covered should include:

1. Customer growth

2. Growth in consumption and customer demand

3. Changes in expenses

4. Construction requirements, including production reserves and changes in plant capacity

5. Capital structure changes

6. Financing costs, interest rates

Supporting Schedules: Recap Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX G.
COST OF SERVICE ANALYSES

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: G-1 Title: Cost of Service Summary-Present Rates
Explanation: Schedule showing rates of return by customer classification at present rates.	Required For: All Utilities ☐ Special Reqmt. ☒ Class A ☐ Class B ☐ Class C ☐ Class D ☐

	Total	Customer Classification A	B	Z
Revenues (a)	$	$	$	$
Expenses (b)				
Operating Income before Income Taxes				
Income Taxes	_____	_____	_____	_____
Net Operating Income	$ _____	$ _____	$ _____	$_____
Rate Base (c)	$	$	$	$
Rate of Return	%	%	%	%

Supporting Schedules:
(a) H-1 (c) G-3
(b) G-4

Recap Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: G-2

Title: Cost of Service Summary-Proposed Rates

Explanation:
Schedule showing rates of return by customer classification at proposed rates.

Required For:

All Utilities	☐	Special Reqmt.	x
Class A	☐		
Class B	☐		
Class C	☐		
Class D	☐		

	Total	Customer Classification A	B	Z
Revenues (a)	$	$	$	$
Expenses (b)				
Operating Income before Income Taxes				
Income Taxes	_____	_____	_____	_____
Net Operating Income	$ _____	$ _____	$ _____	$ _____
Rate Base (c)	$	$	$	$
Rate of Return	%	%	%	%

Supporting Schedules:
(a) H-1 (c) G-3
(b) G-4

Recap Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: G-3

Title: Rate Base Allocation to Classes of Service

Explanation:
Schedule showing allocation of plant at original cost less depreciation to class of service.

Required For:

All Utilities	☐	Special Reqmt.	x
Class A	☐		
Class B	☐		
Class C	☐		
Class D	☐		

Class of Service	Total (a)		Demand PlantFunction					Commodity Plant Function				Customer	
			1	2	3	etc.		1	2	3	etc.	Gen.	Specific
	$	%	$(b)	%(c)									
A													
B													
⋮													
Z	$												
TOTAL	$	%	$(b)	(c) %									

Supporting Schedules:
(b) G-5
(c) G-7

Recap Schedules:
(a) G-1 & G-2

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: G-4

Title: Expense Allocation to Classes of Service

Explanation:
Schedule showing allocation of operating expenses to class of service.

Required For:

All Utilities	☐	Special Reqmt.	x
Class A	☐		
Class B	☐		
Class C	☐		
Class D	☐		

Class of Service	Total (a)		Demand Plant Function					Commodity Plant Function				Customer		Other
			1		2	3	4	1	2	3	etc.	Gen.	Specific	
	$	%	$(b)	%(c)										
A														
B														
⋮														
Z	$													
TOTAL	$	%	$(b)	(c) %										

Supporting Schedules:
(b) G-5
(c) G-7

(a) Recap Schedules:
G-1 & G-2

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: G-5

Title: Distribution of Rate Base by Function

Explanation:
Schedule showing allocation of plant at original cost less depreciation to defined functions.

Required For:

All Utilities	☐	Special Reqmt.	x
Class A	☐		
Class B	☐		
Class C	☐		
Class D	☐		

		Function*						
		Demand					Customer*	
Plant Classification	Total	1*	2*	3*	4*	Commodity*	Gen.	Specific
	$ %							
Production								
Transmission								
$	%							

* Production or transmission, primary, secondary, etc.

Supporting Schedules: (a) G-3

Recap Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: G-6

Title: Distribution of Expenses by Function

Explanation:
Schedule showing allocation of operating expenses to defined functions.

Required For:

All Utilities	☐	Special Reqmt.	x
Class A	☐		
Class B	☐		
Class C	☐		
Class D	☐		

			Function*							
			Demand						Customer	
Expense Classification	Total		1*	2*	3*	4*	Commodity	Gen.	Specific	Other
	$	%	$	%						
Production:										
Transmission:										
Sales:										
Administrative:										
Total Operating Expenses (a)	$	%	$	%						

* Production Transmission, primary, secondary, etc.

Supporting Schedules:

Recap Schedules:
(a) G-4

ARIZONA CORPORATION COMMISSION REGULATION R14-2-103 APPENDIX ILLUSTRATIVE SCHEDULE FORMAT	Schedule: G-7 Title: Development of Allocation Factors
Explanation: Schedule(s) showing development of all allocation factors used in the cost of service study.	Required For: All Utilities [ ] Special Reqmt. [x] Class A [ ] Class B [ ] Class C [ ] Class D [ ]

Schedules should be provided to indicate how demand, commodity and customer allocation factors were developed. Demand method employed, e.g., peak, average and excess, non-coincident peak, should be disclosed supported with adequate detail.

Supporting Schedules:

Recap Schedules:
G-4
G-3

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103

APPENDIX H.
EFFECT OF PROPOSED TARIFF SCHEDULES

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: H-1

Title: Summary of Revenues by Customer Classification-Present and Proposed Rates

Explanation:
Schedule comparing revenues by customer classification for the test year, at present and proposed rates.

Required For:

All Utilities [x] Special Reqmt. [ ]
Class A [ ]
Class B [ ]
Class C [ ]
Class D [ ]

	Revenues in the Test Year (a)		Proposed Increase (b)	
Customer Classification	Present Rates	Proposed Rates	Amount	%
Residential	$	$	$	
Industrial				
Total Revenues	$ _____	$ _____	$ _____	$ _____

Note: For combination utilities, above information should be presented in total and by department.

Supporting Schedules:
(a) H-2
(b)

Recap Schedules:
A-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: H-2

Title: Analysis of Revenue by Detailed Class

Explanation:
Schedule comparing revenues by detailed class of service, for the test year, at present and proposed rates.

Required For:

All Utilities	☐	Special Reqmt.	☐
Class A	x		
Class B	x		
Class C	☐		
Class D	☐		

Class of Service	Average Number of Customers	Average Consumption	Revenues Present Rates	Revenues Proposed Rates	Proposed Increase Amount	Proposed Increase %
Residential:			$	$	$	
General						
Limited Service						
Total Residential			$ (a)	$ (a)	$ (a)	$ (a) %
Industrial:						
General service						
Optional service						
Total Company			$	$	$	%

Note: For combination utilities, above information should be presented by department.

Supporting Schedules:

Recap Schedules:
(a)H-1

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: H-3

Title: Changes In Representative Rate Schedules

Explanation:
Schedule(s) comparing present rate schedules with proposed rate schedule.

Required For:

All Utilities	[ ]	Special Reqmt. [ ]
Class A	[x]	} Representative Schedules
Class B	[x]	} All Schedules
Class C	[x]	
Class D	[x]	

Rate Schedule	Description	Block	Present Rate	Proposed Rate	Change
1	Residential-Gen. Service	First 1,000 gal.	$1.00	$1.25	$ .25
		Next 1,000 gal.	$ .08/100	$ .10/100	$ .02/100
12	Industrial-Gen. Service				

Supporting Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: H-4

Title: Typical Bill Analysis

Explanation:
Schedule(s) comparing typical customer bills at varying consumption levels at present and proposed rates.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Rate Schedule	Description	Monthly Consumption	Present Bill	Proposed Bill	% Increase
1	Residential-Gen. Service	1,000 gal. or less	$1.00	$1.25	25.0%
		5,000 gal.	$3.30	$ 3.80	15.2%

Supporting Schedules:

ARIZONA CORPORATION COMMISSION
REGULATION R14-2-103
APPENDIX
ILLUSTRATIVE SCHEDULE FORMAT

Schedule: H-5

Title: Bill Count

Explanation:
Schedule(s) showing billing activity by block for each rate schedule.

Required For:

All Utilities	x	Special Reqmt.	
Class A			
Class B			
Class C			
Class D			

Rate Schedule:_____

Description:_____

Block	Number of Bills by Block	Consumption By Blocks	Cumulative Bills No.	Cumulative Bills % of Total	Cumulative Consumption Amount	Cumulative Consumption % of Total

Average Number of Customers _____

Average Consumption _____

Median Consumption _____

Supporting Schedules:

Recap Schedules:

Historical Note
Former Section R14-2-103 renumbered as Section R14-2-101, former Section R14-2-128 renumbered as Section R14-2-103 without change effective March 2, 1982 (Supp. 82-2). Amended subsection (B) effective June 18, 1987 (Supp. 87-2). Amended effective August 31, 1992 (Supp. 92-3).

R14-2-104. Inspection of annual reports

Pursuant to A.R.S. § 40-204(C), all utility annual reports and attachments thereto required to be filed pursuant to this Chapter shall be open to public inspection without further or special order of the Arizona Corporation Commission.

Historical Note

Former Section R14-2-104 repealed, new Section R14-2-104 adopted effective March 2, 1982 (Supp. 82-2).

R14-2-105. Notice of rate hearings

A. Every public service corporation shall give notice to customers affected of any hearing at which the fair value of that corporation's property is to be determined and just and reasonable rates and charges are to be established.

B. The form and manner of such notice shall be as the Commission may direct by procedural order.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not certified by the Attorney General.

R14-2-106. Commission Color Code to Identify Location of Underground Facilities

A. If the location of an underground facility is marked with stakes, paint, or in some customary manner pursuant to A.R.S. § 40-360.21(13), the facility owner will use the following color code:

Facility Type	Specify Color
Electric Power Distribution and Transmission	Safety Red
Gas distribution and Transmission; Oil Product Distribution and Transmission; Dangerous Materials, Product Lines	High Visibility Safety Yellow
Telephone and Telegraph System; Cable Television	Safety Alert Orange
Fiber Optics Communication Lines	The Letter "F" in Safety Alert Orange
Water Systems; Slurry Pipelines	Safety Precaution Blue
Sanitary Sewer Systems	Safety Green

UNACCEPTABLE FACILITY LOCATION COLORS:

Fluorescent Pink - This shall be considered a land surveyor marking.

White - This shall be reserved for excavator markings.

B. Excavators and Underground Facility Owners shall consider use of the color fluorescent pink to be indicative of land survey markings and not location markings for any underground facility. Surveyors may place aerial photogrammetric markings (targets) using the color white; such marking shall have a fluorescent pink dot not less than 2 inches in diameter placed within 1 foot of any edge of the aerial marking. Fluorescent pink shall not be used by excavators or Underground Facility Owners.

C. Excavators making markings pursuant to A.R.S. § 40-360.22(C) are required to use the color white.

D. Colors similar to those listed in R14-2-106(A) through R14-2-106(C) shall not be used for other than their listed purpose.

Historical Note

Adopted effective September 5, 1986 (Supp. 86-5). Amended effective June 4, 1993, under an exemption from the Attorney General certification requirements of the Arizona Administrative Procedure Act (Supp. 93-2). Amended effective August 16, 1996 (Supp. 96-3).

ARTICLE 2. ELECTRIC UTILITIES

R14-2-201. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply.

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 two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period". The time interval between two 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 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 one 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 one hour when delivery is at a constant rate of one 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 four or more contiguous lots with an average size of one 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.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

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 first 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.

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.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

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).
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 two 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 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.

C. Grounds for refusal of service

1. A utility may refuse to establish service if any of the following conditions exist:
   a. 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.
   b. 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.
   c. 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.
   d. Customer is known to be in violation of the utility's tariffs filed with the Commission.
   e. 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.
   f. Applicant falsifies 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 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 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. Temporary service

1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for services the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's line extension rules shall apply.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-204. Minimum Customer Information Requirements

A. Information for residential customers

1. A utility shall make available upon customer request not later than 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. Information required due to changes in tariffs

1. Each utility shall transmit to affected customers a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180

days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

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 six 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) 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
   g. Customer accounting cost (one account vs. several accounts).

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-206. Service Lines and Establishments

A. Priority and timing of service establishments
1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When a utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the service establishment to the satisfaction of both parties.
4. A utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

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 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 his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (See State of Arizona v.

Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not certified by the Attorney General.

R14-2-207. Line Extensions

A. General requirements
1. Each utility shall file for Commission approval a line extension tariff which incorporates the provisions of this rule and specifically defines the conditions governing line extensions.
2. Upon request by an applicant for a line extension, the utility shall prepare, without charge, a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant.
3. Any applicant for a line extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed line extension. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates. Subdivisions providing the utility with approved plats shall be provided with plans, specifications, or cost estimates within 45 days after receipt of the deposit referred to above.
4. Where the utility requires an applicant to advance funds for a line extension, the utility shall furnish the applicant with a copy of the line extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All line extension agreements requiring payment by the applicant shall be in writing and signed by each party.
6. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements
1. Each line extension agreement shall, at a minimum, include the following information:
   a. Name and address of applicant 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
   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 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. Residential subdivision development and permanent mobile home parks
1. Each utility shall submit as a part of its line extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.

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 main-

tained 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 three 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 is an existing distribution pole line or lines 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. Ownership of facilities

1. Any facilities installed hereunder shall be the sole property of the utility.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (E)(3)(c) effective April 1, 1986 (Supp. 86-2). Amended effective August 6, 1991 (Supp. 91-3). Amended effective August 16, 1996 (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

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/or estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering 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. Continuity of service

1. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
   a. Any cause against which the utility could not have reasonably foreseen or made provision for, that is, force majeure.
   b. Intentional service interruptions to make repairs or perform routine maintenance.
   c. Curtailment.

D. Service interruptions

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than 4 hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruption in service affecting the entire system or any significant portion thereof. The interruption of service and cause shall be reported by telephone to the Commission within 2 hours after the responsible representative of the utility becomes aware of said interruption and followed by a written report to the Commission.

E. Curtailment

1. 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. Construction standard and safety

1. Each utility shall construct all facilities in accordance with the provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code, incorporated by reference and on file with the Office of the Secretary of State, and the 1995 edition (and no future editions) of ANSI B31.1 (ASME Code for Pressure Piping), incorporated by reference and on file with the Office of the Secretary of State. Copies of the National Electrical Safety Code are available from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, New York 10017. Copies of the ASME Code for Pressure Piping are available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.
2. Each utility shall adopt a standard alternating nominal voltage or standard alternating nominal voltages (as may be required by its distribution system) for its entire service area or for each of the several districts into which the system may be divided, which standard voltage or voltages shall be stated in the rules and regulations of each utility and shall be measured at the customer's service entrance. Each utility shall, under normal operating conditions, maintain its standard voltage within the limits of the 1989 edition (and no future editions) of ANSI C84.1 (American National Standard for Electric Power Systems and Equipment-Voltage Ratings [60Hz]), incorporated by reference and on file with the Office of the Secretary of State. Copies are available from the American National Standards Institute, 1430 Broadway, New York, New York 10018.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsections (D)(5) and (F)(1) and (2) effective April 1, 1986 (Supp. 86-2). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-209. Meter Reading

A. Company or customer meter reading

1. Each utility, billing entity, or Meter Reading Service Provider may at its discretion allow for customer reading of meters.
2. It shall be the responsibility of the utility or Meter Reading Service Provider to inform the customer how to properly read his meter.
3. Where a customer reads his own meter, the utility or Meter Reading Service Provider will read the customer's meter at least once every 6 months.
4. The utility, billing entity, or Meter Reading Service Provider shall provide the customer with postage-paid cards or other methods to report the monthly reading.
5. Each utility or Meter Reading Service Provider shall specify the timing requirements for the customer to sub-

mit his or her monthly meter reading to conform with the utility's billing cycle.

6. Where the Electric Service Provider is responsible for meter reading, reads will be available for the Utility Distribution Company's or billing entity's billing cycle for that customer, or as otherwise agreed upon by the Electric Service Provider and the Utility Distribution Company or billing entity.
7. In the event the customer fails to submit the reading on time, the utility or billing entity may issue the customer an estimated bill.
8. In the event the Electric Service Provider responsible for meter reading fails to deliver reads to the Meter Reading Service Provider server within 3 days of the scheduled cycle read date, the Affected Utility may estimate the reads.
9. Meters shall be read monthly on as close to the same day as practical.

B. Measuring of service

1. All energy sold to customers and all energy consumed by the utility, except that sold according to fixed charge schedules, shall be measured by commercially acceptable measuring devices, except where it is impractical to install meters, such as street lighting or security lighting, or where otherwise authorized by the Commission.
2. When there is more than 1 meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered or metering equipment.
3. Meters which are not direct reading shall have the multiplier plainly marked on the meter.
4. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier.
5. Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

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 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 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. Access to customer premises. Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with property used in furnishing service and the exercise of any and all rights secured to it by law or these rules.

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. Request for meter tests. A utility or Meter Service Provider shall test a meter upon the request of the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity, and each utility or billing entity shall be authorized to charge the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in R14-2-1601), or billing entity for such 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 to the customer, or the customer's Electric Service Provider, Utility Distribution Company, or billing entity.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (E)(1) effective April 1, 1986 (Supp. 86-2). Amended effective February 8, 1991 (Supp. 91-1). Amended effective August 16, 1996 (Supp. 96-3). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

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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, 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);

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. Applicable tariffs, prepayment, failure to receive, commencement date, taxes

1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.

2. Each utility or billing entity shall make provisions for advance payment of utility services.

3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.

4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum 1-month billing period is established on the date the service is installed (excluding landlord/utility special agreements).

5. Charges for services disconnected after 1 month shall be prorated back to the customer of record.

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 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 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. Insufficient funds (NSF) or returned checks
1. A utility or billing entity shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for electric service with a check or other financial instrument which is returned by the customer's bank or other financial institution.
2. When the utility or billing entity is notified by the customer's bank or other financial institution that the check or financial instrument tendered for utility service will not clear, the utility or billing entity may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment.
3. A customer who tenders such a check or financial instrument shall in no way be relieved of the obligation to render payment to the utility or billing entity under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.

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,
   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,
   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. Change of occupancy
1. To order service discontinued or to change occupancy, the customer must give the utility at least 3 working days advance notice in person, in writing, or by telephone.
2. The outgoing customer shall be responsible for all utility services provided or consumed up to the scheduled turn-off date.
3. The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v.

Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-211. Termination of Service

A. Nonpermissible reasons to disconnect service
1. A utility may not disconnect service for any of the reasons stated below:
   a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
   b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
   c. Nonpayment of a bill related to another class of service.
   d. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
   e. A utility shall not terminate residential service where the customer has an inability to pay and:
      i. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the customer's or a permanent resident residing on the customer's premises health, or
      ii. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
      iii. Where weather will be especially dangerous to health as defined or as determined by the Commission.
   f. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
      i. The customer has been informed of the availability of funds from various government and social assistance agencies of which the utility is aware.
      ii. A 3rd party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.
   g. A customer utilizing the provisions of subsection (d) or (e) above may be required to enter into a deferred payment agreement with the utility within 10 days after the scheduled termination date.
   h. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.

B. Termination of service without notice
1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for nonpayment but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. Utility service may be disconnected without advance written notice under the following conditions:
   a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
   b. The utility has evidence of meter tampering or fraud.
   c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of 1 year and shall be available for inspection by the Commission.

C. Termination of service with notice
1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for nonpayment but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
   a. Customer violation of any of the utility's tariffs,
   b. Failure of the customer to pay a delinquent bill for utility service,
   c. Failure to meet or maintain the utility's deposit requirements,
   d. Failure of the customer to provide the utility reasonable access to its equipment and property,
   e. Customer breach of a written contract for service between the utility and customer,
   f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for 1 year and be available for Commission inspection.

D. Termination notice requirements
1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
   a. The name of the person whose service is to be terminated and the address where service is being rendered.
   b. The utility tariff that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
   c. The date on or after which service may be terminated.
   d. A statement advising the customer to contact the utility at a specific address or phone number for information regarding any deferred payment or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.
   e. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after

affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.

3. Where applicable, a copy of the termination notice will be simultaneously forwarded to designated third parties.

E. Timing of terminations with notice

1. Each utility shall be required to give at least 5 days' advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.
4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

F. Landlord/tenant rule

1. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:
   a. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
   b. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

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 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
   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 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 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 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 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 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 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 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,
   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. Filing of tariffs

1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the effective date of such rules.
2. Each utility shall file with the Commission any proposed changes to the tariffs on file with the Commission; such proposed changes shall be accompanied by a statement of justification supporting the proposed tariff change.
3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission.

G. Accounts and records

1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Electric Utilities as adopted and amended by the Federal Energy Regulatory Commission or, for electric cooperatives, as promulgated by the Rural Electrification Administration.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission and in addition, for electric cooperatives, annual reports required by the Rural Electrification Administration.

H. Maps

1. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

I. Variations, exemptions of Commission rules and regulations

1. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 2) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commis-

sion rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

J. Prior agreements

1. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

R14-2-213. Conservation

Energy conservation plan

1. The Arizona Corporation Commission recognizes the need for conservation of energy resources in order to maintain an adequate and continuous supply of safe, dependable, and affordable energy. Therefore, in order to promote the state's economic development and the health and welfare of its citizenry, each class A and B electric utility shall file an energy conservation plan which encompasses at a minimum the following considerations:
   a. Development of consumer education and assistance programs to aid the populace in reducing energy consumption and cost.
   b. Participation in various energy conservation programs sponsored by other municipal, state or federal government entities having such jurisdiction.
2. Each utility shall file an energy conservation plan with the Commission within one year of the effective date of these rules and annual updates thereafter when changes require such.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

ARTICLE 3. GAS UTILITIES

R14-2-301. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a main extension agreement the value of which may be refundable.
2. "Applicant". A person requesting the utility to supply gas service.
3. "Application". A request to the utility for gas 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 two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period". The time interval between two consecutive meter readings that are taken for billing purposes.
7. "British Thermal Unit". The amount of heat required to raise the temperature of one pound of water one degree Fahrenheit (1°F) at standard conditions.
8. "Btu". British thermal unit.
9. "Commodity charge". The unit of cost per billed usage, as set forth in the utility's tariffs.
10. "Contributions in aid of construction". Funds provided to the utility by the applicant under the terms of a main extension agreement and/or service connection tariff the value of which are not refundable.
11. "Cubic foot"
    a. In cases where gas is supplied and metered to customers at the standard delivery pressure, a cubic foot of gas is the volume of gas which, at the temperature and pressure existing in the meter, occupies one cubic foot.
    b. Regardless of the pressure supplied to the customer, the volume of gas metered will be converted to the volume which the gas would occupy at standard conditions of 14.73 pounds per square inch absolute at 60°F.
    c. The standard cubic foot of gas for testing the gas itself for heating value shall be that volume of gas which, when saturated with water vapor and at a temperature of 60°F and under a pressure equivalent to that of 30 inches of mercury (mercury at 32°F and under standard gravity), occupies one cubic foot.
12. "Ccf". One hundred (100) cubic feet.
13. "Curtailment priority". The order in which gas service is to be curtailed to various classifications of customers, as set forth in the utility's tariffs.
14. "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.
15. "Customer charge". The amount the customer must pay the utility for the availability of gas service, excluding any gas used, as specified in the utility's tariffs.
16. "Day". Calendar day.
17. "Distribution main". A gas line of the utility from which service lines may be extended to customers.
18. "Elderly". A person who is 62 years of age or older.
19. "Handicapped". A person with a physical or mental condition which substantially contributes to the person's inability to manage his or her own resources, carry out activities of daily living, or protect oneself from neglect or hazardous situations without assistance from others.
20. "Illness". A medical ailment or sickness for which a residential customer obtains a verifiable 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 in the opinion of a licensed medical physician.
21. "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 from the government welfare assistance agency, or
    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 one of the above criteria and is either elderly, handicapped, or suffers from an illness.
22. "Interruptible gas service". Gas service that is subject to interruption or curtailment as specified in the utility's tariff.

23. "Main extension". The lines and equipment necessary to extend the existing gas distribution system to provide service to additional customers.
24. "Master meter". An instrument for measuring or recording the flow of gas at a single location where said gas is transported through an underground piping system to tenants or occupants for their individual consumption.
25. "Mcf". One thousand (1,000) cubic feet.
26. "Meter". The instrument for measuring and indicating or recording the volume of gas or flow that has passed through it.
27. "Meter tampering". A situation where a meter has been illegally altered. Common examples are meter bypassing and other unauthorized connections.
28. "Minimum charge". The amount the customer must pay for the availability of gas service, including an amount of usage, as specified in the utility's tariffs.
29. "Permanent customer". A customer who is a tenant or owner of a service location who applies for and receives gas service.
30. "Permanent service". Service which, in the opinion of the utility, is of a permanent and established character. The use of gas may be continuous, intermittent, or seasonal in nature.
31. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
32. "Point of delivery". The point where pipes owned, leased, or under license by a customer connect to the utility's pipes or at the outlet side of the meter.
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". Any tract of land which has been divided into four or more contiguous lots 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 gas 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. "Restricted apparatus". Apparatus prohibited by the Commission or other governmental agency.
37. "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 gas service.
38. "Service line". A gas pipe that transports gas from a common source of supply (normally a distribution main) to the customer's point of delivery.
39. "Service establishment charge". A charge as specified in the utility's tariffs which covers the cost of establishing a new account.
40. "Service reconnect charge". A charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of gas service each time the gas is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's tariffs.
41. "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.
42. "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.
43. "Standard delivery pressure". 0.25 pounds per square inch gauge at the meter or point of delivery.
44. "Tariffs". The documents filed with the Commission which list the services and products offered by the gas company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
45. "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.
46. "Therm". A unit of heating value, equivalent to 100,000 British thermal units (Btu's).
47. "Third-party notice". 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.
48. "Utility". The public service corporation providing gas service to the public in compliance with state law.
49. "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 any other weather conditions are especially dangerous to health as the need arises.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-302. Certificate of Convenience and Necessity for gas utilities; additions/extensions; abandonments

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 first 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. 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.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-303. 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).
   b. Service address or location and telephone number.
   c. Billing address or location and 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 gas usage and demand requirements of the customers.
   j. Type and kind of life-support equipment, if any, used by the customer.
2. Each 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 two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one 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 at another service location within the past two 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 a gas utility where service of a comparable nature was last received which states that the applicant has had service of a comparable nature with the utility at another service location within the past two years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
   c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from an existing customer with service who is acceptable to the utility or a surety bond as security for the utility.
2. The utility 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 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 Letter of Guarantee or surety bond 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 three or more 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 two times that customer's estimated average monthly bill.
   b. Nonresidential customer deposits shall not exceed two and one-half 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.

C. Grounds for refusal of service
1. A utility may refuse to establish service if any of the following conditions exist:
   a. 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.
   b. 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.
   c. 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.
   d. Customer is known to be in violation of the utility's tariffs filed with the Commission.
   e. 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.
   f. Applicant falsifies his or her identity for the purpose of obtaining service.

D. Service establishments, reestablishment or reconnection charge
1. A utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services.
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 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.

E. Temporary service

1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for service the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's main extension rules shall apply.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-304. Minimum customer information requirements

A. Information for residential customers
1. Each utility shall make available upon customer request not later than 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. 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 appropriate.
   c. Any adjustment factor(s) and method of calculation.
2. The utility shall to the extent practical identify the tariff 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 the date of request a copy of the Commission's rules and regulations concerning:
   a. Deposits
   b. Terminations 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 rights to obtain the information specified above.

B. Information required due to changes in tariffs
1. Each utility shall transmit to affected customers a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-305. Master metering

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. Main extensions and service line connections to serve such new construction or expansion shall be governed by the main extension and/or service line 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 six months.
3. For the purposes of this rule, expansion means construction which has been started for additional permanent residential spaces after the effective date of this rule.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-306. Service lines and establishments

A. Priority and timing of service establishments
1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When the utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the establishment to the satisfaction of both parties.
4. Each utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

B. Service lines
1. Customer provided facilities
   a. An applicant for services shall be responsible for the safety and maintenance of all customer piping from the point of delivery.
   b. Meters shall be installed in a location suitable to the utility where the meters will be safe from street traffic, readily and safely accessible for reading, testing and inspection, and where such activities will cause the least interference and inconvenience to the customer. The customer shall provide, without cost to the utility, at a suitable and easily accessible location, sufficient and proper space for the 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 customer piping necessary for relocating the meter 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. Any service line in excess of that allowed at no charge shall be paid by the customer as a contribution in aid of construction.

3. Easements and rights-of-way
   a. Each customer shall grant adequate easement and right-of-way satisfactory to the utility to ensure 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.
   b. When a utility discovers that a customer or 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 his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-307. Main extensions

A. General requirements
1. Each utility shall file for Commission approval a main extension tariff which incorporates the provisions of this rule and specifically defines the conditions governing main extensions.
2. Upon request by an applicant for a main extension, the utility shall prepare, without charge, a preliminary sketch and rough estimates of the cost of installation to be paid by said applicant.
3. Any applicant for a main extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed main extension. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimate. Subdividers providing the utility with approved plats shall be provided with plans, specifications or cost estimates within 45 days after receipt of the deposit referred to above.
4. Where the utility requires an applicant to advance funds for a main extension, the utility shall furnish the applicant with a copy of the main extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All main extension agreements requiring payment by the applicant shall be in writing and signed by each party.
6. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements
1. Each main extension agreement shall, at a minimum, include the following information:
   a. Name and address of applicant(s)
   b. Proposed service address or location
   c. Description of requested service
   d. Description and sketch of the requested main 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 main extension
   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 main extension.
2. Each applicant shall be provided with a copy of the written main extension agreement.

C. Main extension requirements
1. Each main 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 main extension. In those instances where the requested main 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 main extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a main 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 main 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 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. Residential subdivision development and permanent mobile home parks
1. Each utility shall submit as a part of its main extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.

E. Ownership of facilities
1. Any facilities installed hereunder shall be the sole property of the utility.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-308. Provision of service

A. Utility responsibility

1. Each utility shall be responsible for the safe transmission and distribution of gas until it passes the point of delivery to the customer.
2. Each utility shall be responsible for maintaining in safe operating condition all meters, regulators, service pipe or other fixtures installed on the customer's premises by the utility for the purpose of delivering gas to the customer.
3. Each utility may, at its option, refuse service until the customer's pipes and appliances have been tested and found to be safe, free from leaks, and in good operating condition. Proof of such testing shall be in the form of a certificate executed by a licensed plumber of local inspector, certifying that the customer's facilities have been tested and are in safe operating condition.
4. Each utility shall be required to test the customer's piping for leaks when the gas is turned on. If such tests indicate leakage in the customer's piping, the utility shall refuse to provide service until such time as the customer has had the leakage corrected.

B. Customer responsibility

1. Each customer shall be responsible for maintaining all customer piping, fixtures and appliances 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.
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/or estimated unmetered usage resulting from unauthorized breaking of seals, interfering, tampering or bypassing the utility meter.
5. Each customer shall be responsible for notifying the utility of any gas leakage identified in the customer's or the utility's equipment.

C. Continuity of service

1. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
   a. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure
   b. Intentional service interruptions to make repairs or perform routine maintenance
   c. Curtailment.

D. Change in character of service

1. When a change is made by the utility in the type of service rendered which would adversely affect the efficiency of operation or require the adjustment of the equipment of customers, all customers who may be affected shall be notified by the utility at least 30 days in advance of the change or, if such notice is not possible, as early as feasible. Where adjustments or replacements of the utility's standard equipment must be made to permit use under such changed conditions, adjustments shall be made by the utility without charge to the customers.

E. Service interruptions

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruptions in service affecting the entire system or any major division thereof. The interruption of service and cause shall be reported within one hour after the responsible representative of the utility becomes aware of said interruption by telephone to the Commission and followed by a written report to the Commission.

F. Heat value standard for natural gas

1. Each gas utility operating under the jurisdiction of the Commission shall supply gas to its customers with an average total heating value of not less than 900 Btu's per cubic foot. The number of Btu's per cubic foot actually delivered through the customer's meter will vary according to the altitude/elevation of the location where the customer is being provided service.

G. Standard delivery pressure

1. Each utility shall maintain a standard delivery pressure at the outlet of the customer's meter of approximately 0.25 pounds per square inch gauge subject to variation under load conditions.
2. In cases where a customer desires service at greater than standard delivery pressure, the utility may supply at its option such greater pressure if and only as long as the furnishing of gas to such customer at higher than standard delivery pressure will not be detrimental to the service of other customers of the utility. The utility reserves the right to lower said delivery pressure or discontinue the delivery of gas at higher pressure at any time upon reasonable notice to the customer. Where service is provided at such higher pressure, the meter volumes shall be corrected to that higher pressure.

H. Curtailment

1. 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.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2). Amended by deleting subsection (I) effective October 23, 1987 (Supp. 87-4).

R14-2-309. Meter reading

A. Company or customer meter reading
1. Each utility may at its discretion allow for customer reading of meters.
2. It shall be the responsibility of the utility to inform the customer how to properly read his or her meter.
3. Where a customer reads his or her own meter, the utility will read the customer's meter at least once every six months.
4. The utility shall provide the customer with postage-paid cards or other methods to report the monthly reading to the utility.
5. Each utility shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.
6. In the event the customer fails to submit the reading on time, the utility may issue the customer an estimated bill.
7. Meters shall be read monthly on as close to the same day as practical.

B. Measuring of service
1. All gas sold by a utility shall be metered except in the case of gas sold according to a fixed charge schedule or when otherwise authorized by the Commission.
2. When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the facilities being metered.

C. Customer requested retreads
1. Each utility shall at the request of a customer reread the customer's meter within ten working days after such request by the customer.
2. Any rereads may be charged to the customer 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.

D. Access to customer premises
1. Each utility shall at all times have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with the furnishing of service and the exercise of any and all rights secured to it by law or these rules.

E. Meter testing and maintenance program
1. Each utility shall file with the Commission subject to review and approval a plan for routine maintenance and replacement of meters.
2. Each utility shall file an annual report with the Commission summarizing the results of the meter maintenance and testing program for that year. At a minimum the report should include the following data:
   a. Total number of meters tested, at company initiative or upon customer request.
   b. Number of meters tested which were outside the acceptable error allowance ± 3%.

F. Customer requested meter tests
1. A utility shall test a meter upon customer request, and each utility shall be authorized to charge the customer for such 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 to the customer.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-310. Billing and collection

A. Frequency and estimated bills
1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days.
2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to 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. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.
4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service.
5. Estimated bills will be issued only under the following conditions:
   a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.
   b. Severe weather conditions which prevent the utility from reading the meter.
   c. Circumstances that make it impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.
6. Each bill based on estimated usage will indicate that it is an estimated bill.

B. Combining meters, minimum bill information
1. Each meter at a customer's premises will be considered separately for billing purposes, and the readings of two or more meters will not be combined except those approved by the utility.
2. Each bill for residential service will contain the following minimum information:
   a. Date and meter reading at the start of billing period or number of days in the billing period
   b. Date and meter reading at the end of the billing period
   c. Billed usage
   d. Rate schedule number
   e. Utility telephone number
   f. Customer's name
   g. Service account number
   h. Amount due and due date
   i. Past due amount
   j. Adjustment factor, where applicable
   k. Taxes
   l. The Arizona Corporation Commission and address, thereof.

C. Billing terms
1. All bills for utility services are due and payable no later than ten days from the date the bill is rendered. Any payment not received within this time frame shall be considered past due.
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 two days).

3. All past due bills for utility services are due and payable within 15 days. Any payment not received within this time frame shall be considered delinquent.
4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.
5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.

D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes

1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
2. Each utility shall make provisions for advance payment of utility services.
3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
4. Charges for service commence when the service is installed and connection made, whether used or not.

E. Meter error corrections

1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:
   a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test.
   b. From the date the error occurred, if the date of the cause can be definitely fixed.
2. No adjustment shall be made by the utility except to the customer last served by the meter tested.

F. Insufficient funds (NSF) checks

1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.
2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.

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 the customer's monthly bill:
   a. Actual consumption
   b. Amount due for actual consumption
   c. Levelized billing amount due
   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 and/or cost should vary significantly from the customer's actual usage and/or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.

H. Elevation/pressure adjustment

1. Each gas utility shall, as a part of a general rate proceeding, file an adjustment factor to be applied to customer meter recordings to adjust for differences in pressure due to elevation.

I. 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 due to the customer's inability to pay an outstanding bill in full 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 six 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
   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; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall

not prevent the utility from discontinuing 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 and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

J. Change of occupancy

1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the utility's office to discontinue service or to change occupancy.
2. The outgoing party shall be responsible for all utility services provided and/or consumed up to the scheduled turn-off date.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-311. Termination of service

A. Nonpermissible reasons to disconnect service

1. A utility may not disconnect service for any of the reasons stated below:
   a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
   b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
   c. Nonpayment of a bill related to another class of service.
   d. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
   e. A utility shall not terminate residential service where the customer has an inability to pay and:
      i. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the customer or a permanent resident residing on the customer's premises health, or
      ii. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
      iii. Where weather will be especially dangerous to health as defined herein or as determined by the Commission.
   f. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
      i. The customer has been informed of the availability of funds from various government and social assistance agencies
      ii. A third party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.
   g. A customer utilizing the provisions of e. or f. above may be required to enter into a deferred payment agreement with the utility within ten days after the scheduled termination date.
   h. Failure to pay the bill of another customer as guarantor thereof.
   i. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.

B. Termination of service without notice

1. Utility service may be disconnected without advance written notice under the following conditions:
   a. The existence of an obvious hazard to the safety or health of the consumer or the general population.
   b. The utility has evidence of meter tampering or fraud.
   c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice

1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
   a. Customer violation of any of the utility's tariffs.
   b. Failure of the customer to pay a delinquent bill for utility service.
   c. Failure to meet or maintain the utility's deposit requirements.
   d. Failure of the customer to provide the utility reasonable access to its equipment and property.
   e. Customer breach of a written contract for service between the utility and customer.
   f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
   a. The name of the person whose service is to be terminated and the address where service is being rendered.
   b. The utility tariff that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
   c. The date on or after which service may be terminated.
   d. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the

cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.

3. Where applicable, a copy of the termination notice will be simultaneously forwarded to designated third parties.

E. Timing of terminations with notice

1. Each utility shall be required to give at least five days' advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.
4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

F. Landlord/tenant rule

1. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:
   a. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
   b. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-312. 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 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
   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 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 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 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 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 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 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 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,
   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. Filing tariffs

1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the effective date of such rules.
2. Each utility shall file with the Commission any proposed changes to the tariffs on file with the Commission; such proposed changes shall be accompanied by a statement of justification supporting the proposed tariff change.
3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission.

G. Accounts and records

1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Gas Utilities as adopted and amended by the Federal Energy Regulatory Commission.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission.

H. Maps

1. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

I. Variations, exemptions of Commission rules and regulations

1. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 3) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regu-

lations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

J. Prior agreements

1. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption from the Attorney General certification requirements of the Arizona Administrative Procedure Act (Supp. 98-4). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

R14-2-313. Conservation

Energy conservation plan

1. The Arizona Corporation Commission recognizes the need for conservation of energy resources in order to maintain an adequate and continuous supply of safe, dependable, and affordable energy. Therefore, in order to promote the state's economic development and the health and welfare of its citizenry, each class A and B gas utility shall file an energy conservation plan which encompasses at a minimum the following considerations:
   a. Development of consumer education and assistance programs to aid the populace in reducing energy consumption and cost.
   b. Participation in various energy conservation programs sponsored by other municipal, state or federal government entities having such jurisdiction.
2. Each utility shall file an energy conservation plan with the Commission within one year of the effective date of these rules and annual updates thereafter when changes require such.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-314. Intermittent gas ignition

A. Application and scope. The provisions of this rule are applicable to the following types of gas appliances:

1. All residential gas-fired space heating equipment requiring electrical supply for operation,
2. All residential gas-fired clothes dryers,
3. All residential gas-fired household cooking appliances having an electrical supply cord or electrical junction box,
4. All residential gas-fired air conditioners,
5. All residential decorative gas lots which are automatically ignited and require electrical supply for operation,
6. All residential vented decorative gas appliances which are automatically lighted and require electrical supply for operation.

B. Prohibition of distribution, sales and installation

1. No person shall cause to be distributed, sold or installed in this state a newly produced gas appliance subject to this rule which has not been certified by the Commission. This prohibition shall not take effect for any particular type of gas appliance until 24 months after at least one model of that type of appliance has been certified by the Commission.
2. All gas appliances certified by the Commission shall have the statement, "This appliance is equipped with an intermittent type ignition device" or "Equipped with IID" or "IID Equipped" on the rating plate.

C. Definitions. For the purpose of this rule, and unless otherwise indicated, the following definitions shall apply in addition to those definitions shown in Title 40, Section 1, Chapter 7, Article 1, Paragraph 40-1201, of the A.R.S.:

1. "Certified by the Commission" means that the Commission has acknowledged receipt of one of the following for an appliance equipped with an intermittent type ignition device; a photostatic copy of the A.G.A. Appliance Certificate or the UL Listing Certificate; a listing of the appliance in the A.G.A. "Directory of Certified Appliances and Accessories" or the UL "Gas and Oil Equipment List"; or a certified test report from a recognized independent testing laboratory acceptable to the Commission stating that the appliance has been tested and conforms to the applicable American National Standards as mentioned below.
2. "Newly produced" means not previously used for the purpose for which designed or any other related purpose and constructed entirely of new unused parts and materials.
3. "Rating plate" means a plate, or combination of adjacent plates located so as to be easily read when the appliance is in a normally installed position.

D. Gas-fired space heating equipment.

1. Except as otherwise provided, all intermittent type ignition devices used on gas-fired space heating equipment shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975, Automatic Gas Ignition Systems and Components.
2. Except as otherwise provided, gas-fired space heating equipment shall be certified by the Commission if it complies with one of the standards approved by the American National Standards Institute, Inc., known as:
   a. ANSI Z21.47-1973-Gas-Fired Gravity and Forced Air Central Furnaces, addenda Z21.47a-1974, and addenda Z21.47b-1975.
   b. ANSI Z21-11.1-1974-Vented Room Heaters, addenda Z21.11.1a-1975 and addenda Z21.11.1b-1976.
   c. ANSI Z21.13-1974-Gas-Fired Low-Pressure Steam and Hot Water Boilers, and addenda Z21.13a-1976.
   d. ANSI Z21.44-1977-Gas-Fired Gravity and Fan Type Sealed Combustion System Wall Furnaces.
   e. ANSI Z21.49-1975-Gas-Fired Gravity and Fan Type Vented Wall Furnaces and addenda Z21.49a-1977.
   f. ANSI Z21.48-1973-Gravity and Fan Type Floor Furnaces and addenda Z21.48a-1974 and addenda Z21.48b-1975.

E. Gas clothes dryers.

1. Except as otherwise provided, all intermittent type ignition devices used on gas clothes dryers shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
2. Except as otherwise provided, gas clothes dryers shall be certified by the Commission, if they comply with the standards approved by the American National Standards Institute, Inc., known as ANSI Z21.5.1-1975-Type 1 Clothes Dryers.

F. Household cooking gas appliances.

1. Except as otherwise provided, all intermittent type ignition devices used on a household cooking gas appliance

shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Component.

2. Except as otherwise provided, household cooking gas appliances shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.1-1974-Household Cooking Appliances, addenda Z21.1a-1974, and addenda Z21.1b-1976.

G. Gas-fired air conditioners.

1. Except as otherwise provided, all intermittent type ignition devices used on a gas-fired air conditioner shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
2. Except as otherwise provided, gas-fired air conditioners shall be certified by the Commission, if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.40.1-1973-Gas-Fired Absorption Summer Air Conditioning Appliances, and addenda Z21.40.1a-1974.

H. Decorative gas logs.

1. Shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
2. Except as otherwise provided, gas-fired decorative gas logs shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.60-1975-Decorative Gas Appliances for Installation in Vented Fireplaces and addenda Z21.60a-1976.

I. Vented decorative gas appliances.

1. Shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.20-1975-Automatic Gas Ignition Systems and Components.
2. Except as otherwise provided, gas-fired vented decorative appliances shall be certified by the Commission if they comply with the standards approved by the American National Standards Institute, Inc., known as: ANSI Z21.50-1973-Vented Decorative Gas Appliances, addenda Z21.50a-1974 and addenda Z21.50b-1974.

J. The statement mentioned in paragraph (B)(2) which is required on the rating plate will be the Seal of Certification for Arizona. The rating plate will be furnished and applied and distributed by the manufacturer.

K. The Utilities Division of this Commission is charged with the duty of maintaining the records necessary for the control of the Certification Program and will notify manufacturers in accordance with paragraph 40-1204, Article 1, Chapter 7, Title 40 of the Arizona Revised Statutes.

L. Variance. Variation from the terms and conditions of this rule shall be permitted only upon the verified application of an affected party to the Commission, setting forth the circumstances whereby the public interest requires such variation, and upon the issuance of a special Order of the Commission. The Commission may require an application for such variation to be presented in a public hearing.

Historical Note

Former Section R14-2-135 renumbered as Section R14-2-314 without change effective March 2, 1982 (Supp. 82-2).

ARTICLE 4. WATER UTILITIES

R14-2-401. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a main extension agreement the value of which may be refundable.
2. "Applicant". A person requesting the utility to supply water service.
3. "Application". A request to the utility for water 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 two regular readings of the utility's meters at approximately 30 day intervals.
6. "Billing period". The time interval between two consecutive meter readings that are taken for billing purposes.
7. "Commodity charge". The unit of cost per billed usage, as set forth in the utility's tariffs.
8. "Contributions in aid of construction". Funds provided to the utility by the applicant under the terms of a main extension agreement and/or service connection tariff the value of which are not refundable.
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 water service, excluding any water used, as specified in the utility's tariffs.
11. "Day". Calendar day.
12. "Distribution main". A water main of the utility from which service connections may be extended to customers.
13. "Interruptible water service". Water service that is subject to interruption or curtailment.
14. "Main extension". The mains and ancillary equipment necessary to extend the existing water distribution system to provide service to additional customers.
15. "Master meter". A meter for measuring or recording the flow of water at a single location where said water is transported through an underground piping system to tenants or occupants for their individual consumption.
16. "Meter". The instrument for measuring and indicating or recording the volume of water that has passed through it.
17. "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.
18. "Minimum charge". The amount the customer must pay for the availability of water service, including an amount of usage, as specified in the utility's tariffs.
19. "Minimum delivery pressure". 20 pounds per square inch gauge at the meter or point of delivery.
20. "Permanent customer". A customer who is a tenant or owner of a service location who applies for and receives water service.
21. "Permanent service". Service which, in the opinion of the utility, is of a permanent and established character. The use of water may be continuous, intermittent, or seasonal in nature.

22. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
23. "Point of delivery". The point where facilities owned, leased, or under license by a customer connect to the utility's pipes or at the outlet side of the meter.
24. "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.
25. "Residential subdivision development". Any tract of land which has been divided into four or more contiguous lots for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
26. "Residential use". Service to customers using water for domestic purposes such as personal consumption, water heating, cooking, and other residential uses and includes use in apartment buildings, mobile home parks, and other multiunit residential buildings.
27. "Rules". The regulations set forth in the tariffs which apply to the provision of water service.
28. "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 water service.
29. "Service establishment charge". The charge as specified in the utility's tariffs which covers the cost of establishing a new account.
30. "Service line". A water line that transports water from a common source (normally a distribution main) of supply to the customer's point of delivery.
31. "Service reconnect charge". The charge as specified in the utility's tariffs which must be paid by the customer prior to reestablishment of water service each time the water is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's fixed rules.
32. "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.
33. "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.
34. "Tariffs". The documents filed with the Commission which list the services and products offered by the water company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
35. "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.
36. "Utility". The public service corporation providing water service to the public in compliance with state law.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-402. Certificate of Convenience and Necessity for water utilities; abandonments

A. Application for new Certificate of Convenience and Necessity

1. Any person or entity who desires to construct and/or operate a water utility will, prior to commencement of construction of utility facilities, file an application for a Certificate of Convenience and Necessity with the Arizona Corporation Commission.
2. 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. A copy of the Articles of Partnership or Articles of Incorporation for the applicant and/or Bylaws if the utility is a non-profit organization, or association.
   c. The type of plant, property, or facility proposed to be constructed.
   d. A complete description of the facilities proposed to be constructed, including preliminary engineering specifications in sufficient detail to properly describe the principal systems and components which meet the requirements of the health department. Final and complete engineering specifications shall be supplied when they become available.
   e. The rates proposed to be charged for the service that will be rendered.
   f. The estimated total cost of the proposed construction.
   g. The manner of capitalization and method of financing for the project.
   h. The financial condition of the applicant.
   i. The estimated annual operating revenues and expenses that are expected to accrue from the proposed construction.
   j. The estimated starting and completion date of the proposed construction.
   k. Maps of the proposed service area.
   l. Appropriate city, county and/or state agency approvals.
   m. The estimated number of customers to be served for each of the first five years of operation, including documentation to support the estimates.
3. Upon the receipt of such application, the Commission staff of the Utilities Division shall review the application for compliance with the information requirements of this regulation; additional information, amendments and/or corrections to the application to bring the application into compliance with this regulation shall be governed by the Commission's rules of administrative and hearing requirements concerning incomplete applications.
4. Once the applicant has satisfied the information requirements of this regulation, as well as any additional information required by the staff of the Commission's Utilities Division, the Commission shall, expeditiously as reasonably practicable, schedule hearings to consider such application.

B. 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.

C. Additions/extensions to outside existing Certificates of Convenience and Necessity
1. Each utility which proposes to extend utility service to a location not within its certificated service area, but located in a non-certificated area contiguous to its certificated service area, shall prior to the extension of service, notify the Commission of such service extension. Such notifications shall be in writing and shall be verified and shall set forth, at a minimum, the number of persons or entities proposed to be served by such service extension, their location in relation to the certificated area of the utility and a statement of the utility that the service extension is to a non-certificated area which is contiguous to its certificated area. Where emergency service is required to be provided to a customer in a non-certificated area contiguous to the utility certificated area the utility shall advise the Commission simultaneously of such extension and the written notification shall set forth the nature and extent of the emergency.
2. For purpose of this rule the following definition of "contiguous" is: Contiguous -- Common, ordinary and approved meaning. In actual close contact; touching; bounded or traversed by.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2). Amended by adding subsection (C) effective September 28, 1982 (Supp. 82-5).

R14-2-403. 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).
   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.
2. Each 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 two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.

B. Deposits
1. A utility may require a deposit from any new applicant for service.
2. The utility 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 right to receive a refund of the deposit which is reflected on the utility's records.
3. Interest on deposits shall be calculated annually at an interest rate filed by the utility and approved by the Commission in a tariff proceeding. In the absence of such, the interest rate shall be 6%.
4. Interest shall be credited to the customer's bill annually.
5. Residential deposits shall be refunded within 30 days after:
   a. 12 consecutive months of service without being delinquent in the payment of utility bills provided the utility may reestablish the deposit if the customer becomes delinquent in the payment of bills two or more times within a 12-consecutive-month period.
   b. Upon discontinuance of service when the customer has paid all outstanding amounts due the utility.
6. A separate deposit may be required for each meter installed.
7. The amount of a deposit required by the utility shall be determined according to the following terms:
   a. Residential customer deposits shall not exceed two times the average residential class bill as evidenced by the utility's most recent annual report filed with the Commission.
   b. Nonresidential customer deposits shall not exceed two and one-half times that customer's estimated maximum monthly bill.
   c. 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. Upon discontinuance of service, the deposit may be applied by the utility toward settlement of the customer's bill.

C. Grounds for refusal of service
1. A utility may refuse to establish service if any of the following conditions exist:
   a. 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.
   b. 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.
   c. Refusal by the applicant to provide the utility with a deposit.
   d. Customer is known to be in violation of the utility's tariffs filed with the Commission or of the Commission's rules and regulations.
   e. 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.
   f. Applicant falsifies his or her identity for the purpose of obtaining service.

D. Service establishments, re-establishments or reconnection charge
1. A utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility services.
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.
3. For the purpose of this rule, 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.

E. Temporary service
1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing the desired service.

2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for service the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's main extension rules shall apply.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsections (B) and (D) effective September 28, 1982 (Supp. 82-5).

R14-2-404. Minimum customer information requirements

A. Information for residential customers
1. Each utility shall make available upon customer request not later than 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. 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(s) and method of calculation.
2. The utility shall to the extent practical identify the tariff 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 the date of request a copy of the Commission's rules and regulations governing:
   a. Deposits
   b. Terminations of service
   c. Billing and collection
   d. Complaint handling.
4. Each utility upon written request of a customer shall transmit a concise 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 rights to obtain the information specified above.

B. Information required due to changes in tariffs
1. Each utility shall transmit to affected customers by the most economic means available a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-405. Service connections and establishments

A. Priority and timing of service establishments
1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service connection and/or establishment.
2. Service establishments shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the five working day limitation.
3. When the utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the service establishment to the satisfaction of both parties.
4. Each utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours, unless another time frame is mutually acceptable to the utility and the customer.
5. Service establishments shall be made only by qualified utility service personnel.
6. For the purposes of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install or read a meter or turn the service on.

B. Service lines
1. An applicant for service shall be responsible for the cost of installing all customer piping up to the meter.
2. An applicant for service shall pay to the utility as a refundable advance in aid of construction the sum as set forth in the utility's tariff for each size service and meter. Except where the refundable advances in aid of construction for meters and service lines have been included in refundable advances in aid of construction for line extensions and thus are refundable pursuant to main extension contracts approved by the Commission, each advance in aid of construction for a service line or meter shall be repaid by the utility by an annual credit of one-tenth of the amount received, said credit to be applied upon the water bill rendered in November of each year until fully paid, for each service and meter for which the advance was made, and said credit to commence the month of November for all such advances received during the preceding calendar year.
3. Where service is being provided for the first time, the customer shall provide and maintain a private cutoff valve within 18 inches of the meter on the customer's side of the meter, and the utility shall provide a like valve on the utility's side of such meter.
4. The Company may install its meter at the property line or, at the Company's option, on the customer's property in a location mutually agreed upon.
5. 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 piping necessary for relocating the meter and the utility may make a charge for moving the meter and/or service line.
6. The customer's lines or piping must be installed in such a manner as to prevent cross-connection or backflow.
7. Each utility shall file a tariff for service and meter installations for Commission review and approval.

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 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 his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (B) effective September 28, 1982 (Supp. 82-5).

R14-2-406. Main extension agreements

A. Each utility entering into a main extension agreement shall comply with the provisions of this rule which specifically defines the conditions governing main extensions.

B. An applicant for the extension of mains may be required to pay to the Company, as a refundable advance in aid of construction, before construction is commenced, the estimated reasonable cost of all mains, including all valves and fittings.

1. In the event that additional facilities are required to provide pressure, storage or water supply, exclusively for the new service or services requested, and the cost of the additional facilities is disproportionate to anticipated revenues to be derived from future consumers using these facilities, the estimated reasonable cost of such additional facilities may be included in refundable advances in aid of construction to be paid to the Company.
2. Upon request by a potential applicant for a main extension, the utility shall prepare, without charge, a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant. Any applicant for a main extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 45 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed main extension. Where the applicant accepts utility construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates.
3. Where the utility requires an applicant to advance funds for a main extension, the utility shall furnish the applicant with a copy of the Commission rules on main extension agreements prior to the applicant's acceptance of the utility's extension agreement.
4. In the event the utility's actual cost of construction is less than the amount advanced by the customer, the utility shall make a refund to the applicant within 30 days after the completion of the construction or utility's receipt of invoices related to that construction.
5. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

C. Minimum written agreement requirements

1. Each main extension agreement shall include the following information:
   a. Name and address of applicant(s)
   b. Proposed service address
   c. Description of requested service
   d. Description and map of the requested line extension
   e. Itemized cost estimate to include materials, labor, and other costs as necessary
   f. Payment terms
   g. A clear and concise explanation of any refunding provisions, if applicable
   h. Utility's estimated start date and completion date for construction of the main extension
2. Each applicant shall be provided with a copy of the written main extension agreement.

D. Refunds of advances made pursuant to this rule shall be made in accord with the following method: the Company shall each year pay to the party making an advance under a main extension agreement, or that party's assignees or other successors in interest where the Company has received notice and evidence of such assignment or succession, a minimum amount equal to 10% of the total gross annual revenue from water sales to each bona fide consumer whose service line is connected to main lines covered by the main extension agreement, for a period of not less than ten years. Refunds shall be made by the Company on or before the 31st day of August of each year, covering any refunds owing from water revenues received during the preceding July 1st to June 30th period. A balance remaining at the end of the ten-year period set out shall become non-refundable, in which case the balance not refunded shall be entered as a contribution in aid of construction in the accounts of the Company, however, agreements under this general order may provide that any balance of the amount advanced thereunder remaining at the end of the ten year period set out, shall thereafter remain payable in whole or in part and in such manner as is set forth in the agreement.

1. The aggregate refunds under this rule shall in no event exceed the total of the refundable advances in aid of construction. No interest shall be paid by the utility on any amounts advanced. The Company shall make no refunds from any revenue received from any lines, other than customer service lines, leading up to or taking off from the particular main extension covered by the agreement.

E. Amounts advanced in aid of construction of main extensions shall be refunded in accord with the rules of this Commission in force and effect on the date the agreement therefor was executed. All costs under main extension agreements entered into after the adoption of this rule shall be refunded as provided herein.

F. The Commission will not approve the transfer of any Certificate of Public Convenience and Necessity where the transferor has entered into a main extension agreement, unless it is demonstrated to the Commission that the transferor has agreed to satisfy the refund agreement, or that the transferee has assumed and has agreed to pay the transferor's obligations under such agreement.

G. All agreements entered into under this rule shall be evidenced by a written statement, and signed by the Company and the parties advancing the funds for advances in aid under this rule or the duly authorized agents of each.

H. The size, design, type and quality of materials of the system, installed under this rule location in the ground and the manner of installation, shall be specified by the Company, and shall be in accord with the requirements of the Commission or other public agencies having authority therein. The Company may install main extensions of any diameter meeting the requirements of the Commission or any other public agencies having authority over the construction and operation of the water system and mains, except individual main extensions, shall comply with and conform to the following minimum specifications:

1. 150 p.s.i. working pressure rating and
2. 6" standard diameter.

However, single residential customer advances in aid of construction shall not exceed the reasonable cost of construction of the six-inch diameter main extension.

I. All pipelines, valves, fittings, wells, tanks or other facilities installed under this rule shall be the sole property of the Company, and parties making advances in aid of construction under this rule shall have no right, title or interest in any such facilities.

J. The Company shall schedule all new requests for main extension agreements, and for service under main extension agreements, promptly and in the order received.

K. An applicant for service seeking to enter into a main extension agreement may request that the utility include on a list of contractors from whom bids will be solicited, the name(s) of any bonded contractor(s), provided that all bids shall be submitted by the bid date stipulated by the utility. If a lower bid is thus obtained or if a bid is obtained at an equal price and with a more appropriate time of performance, and if such bid contemplates conformity with the Company's requirements and specifications, the Company shall be required to meet the terms and conditions of the bid proffered, or to enter into a construction contract with the contractor proffering such bid.

1. Performance bond in the total amount of the contract may be required by the utility from the contractor prior to construction.

L. Any discounts obtained by the utility from contracts terminated under this rule shall be accounted for by credits to the appropriate account dominated as Contributions in Aid of Construction.

M. All agreements under this rule shall be filed with and approved by the Utilities Division of the Commission. No agreement shall be approved unless accompanied by a Certificate of Approval to Construct as issued by the Arizona Department of Health Services. Where agreements for main extensions are not filed and approved by the Utilities Division, the refundable advance shall be immediately due and payable to the person making the advance.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsections (D) and (K) effective September 28, 1982 (Supp. 82-5).

R14-2-407. Provision of service

A. Utility responsibility

1. Each utility shall be responsible for providing potable water to the customer's point of delivery.

B. Customer responsibility

1. Each customer shall be responsible for maintaining all facilities on the customer's side of the point of delivery in a safe and efficient manner and in accordance with the rules of the state Department of Health.
2. Each customer shall be responsible for safeguarding all utility property installed in or on the customer's premises for the purpose of supplying water 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 resulting from unauthorized breaking of seals, interfering, tampering or bypassing the utility meter.
5. Each customer shall be responsible for notifying the utility of any failure identified in the utility's equipment.
6. Water furnished by the utility shall be used only on the customer's premises and shall not be resold to any other person. During critical water conditions, as determined by the Commission, the customer shall use water only for those purposes specified by the Commission. Disregard for this rule shall be sufficient cause for refusal or discontinuance of service.

C. Continuity of service

1. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
   a. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure
   b. Intentional service interruptions to make repairs or perform routine maintenance
   c. Curtailment.

D. Service interruptions

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruptions in service affecting the entire system or any major division thereof. The interruption of service and cause shall be reported within four hours after the responsible representative of the utility becomes aware of said interruption by telephone to the Commission and followed by a written report to the Commission.

E. Minimum delivery pressure

1. Each utility shall maintain a minimum standard delivery pressure of 20 pounds per square inch gauge (PSIG) at the customer's meter or point of delivery.

F. Construction standards

1. Each utility shall construct all facilities in accordance with the guidelines established by the state Department of Health Services.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (F) effective September 28, 1982 (Supp. 82-5).

R14-2-408. Meter reading

A. Frequency

1. Each meter shall be read monthly on as close to the same day as practical.

B. Measuring of service
1. All water delivered by the utility shall be billed upon the basis of metered volume sales except that the utility may, at its option, provide a fixed charge schedule for the following:
   a. Temporary service where the water use can be readily estimated
   b. Public and private fire protection service
   c. Water used for street sprinkling and sewer flushing, when provided for by contract between the utility and the municipality or other local governmental authority
   d. Other fixed charge schedules as shall be submitted to and approved by the Commission.
2. When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the facilities being metered.

C. Customer requested retreads
1. Each utility shall at the request of a customer reread the customer's meter within ten working days after such request by the customer.
2. Any rereads shall be charged to the customer 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.

D. Access to customer premises
1. Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with the utility's property used in furnishing service and the exercise of any and all rights secured to it by law or these rules.

E. Meter testing and maintenance program
1. Each utility shall establish a regular program of meter testing taking into account the following factors:
   a. Size of meter
   b. Age of meter
   c. Consumption
   d. Characteristics of water.

F. Customer requested meter tests
1. A utility shall test a meter upon customer request and each utility shall be authorized to charge the customer for such 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 to the customer.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-409. Billing and collection

A. Frequency and estimated bills
1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days.
2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to 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. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.
4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service.
5. Estimated bills will be issued only under the following conditions:
   a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.
   b. Severe weather conditions which prevent the utility from reading the meter.
   c. Circumstances that make it dangerous or impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.
6. Each bill based on estimated usage will indicate that it is an estimated bill.

B. Combining meters, minimum bill information
1. Each meter at a customer's premises will be considered separately for billing purposes, and the readings of two or more meters will not be combined.
2. Each bill for residential service will contain the following minimum information:
   a. Date and meter reading at the start of billing period
   b. Previous month's meter reading
   c. Billed usage
   d. Utility telephone number
   e. Customer's name
   f. Service account number (if available)
   g. Amount due and due date
   h. Past due amount (where appropriate)
   i. Adjustment factor, where applicable
   j. Other approved tariff charges.

C. Billing terms
1. All bills for utility services are due and payable when rendered. Any payment not received within 15 days from the date the bill was rendered shall be considered delinquent.
2. For purposes of this rule, the date a bill is rendered may be evidenced by:
   a. The postmark date
   b. The mailing date:
      i. Certified mail
      ii. Certificate of mailing.
3. All delinquent bills shall be subject to the provisions of the utility's termination procedures as set forth in R14-2-410.
4. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.

D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes
1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
2. Each utility shall make provisions for advance payment for utility services.
3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
4. Charges for service commence when the service is installed and connection made, whether used or not.
5. In addition to the collection of regular rates, each utility may collect from its customers a proportionate share of any privilege, sales or use tax.

E. Meter error corrections

1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:
   a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test, or
   b. From the date the error occurred, if the date of the cause can be definitely fixed.
2. No adjustment shall be made by the utility except to the customer last served by the meter tested.

F. Insufficient funds (NSF) checks
1. A utility shall be allowed to recover a fee, as approved by the Commission for each instance where a customer tenders payment for utility service with an insufficient funds check.
2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.

G. 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 due to the customer's inability to pay an outstanding bill in full 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 six 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
   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; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing 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 and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

H. Change of occupancy
1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the utility's office to discontinue service or to change occupancy.
2. The outgoing party shall be responsible for all utility services provided and/or consumed up to the scheduled turn-off date.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (C) effective September 28, 1982 (Supp. 82-5).

R14-2-410. Termination of service

A. Nonpermissible reasons to disconnect service
1. A utility may not disconnect service for any of the reasons stated below:
   a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
   b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
   c. Nonpayment of a bill related to another class of service.
   d. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.

B. Termination of service without notice
1. Utility service may be disconnected without advance written notice under the following conditions:
   a. The existence of an obvious hazard to the safety or health of the consumer or the general population.
   b. The utility has evidence of meter tampering or fraud.
   c. Unauthorized resale or use of utility services.
   d. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice
1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
   a. Customer violation of any of the utility's tariffs filed with the Commission and/or violation of the Commission's rules and regulations.

b. Failure of the customer to pay a delinquent bill for utility service.
c. Failure to meet or maintain the utility's credit and deposit requirements.
d. Failure of the customer to provide the utility reasonable access to its equipment and property.
e. Customer breach of a written contract for service between the utility and customer.
f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.

2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
   a. The name of the person whose service is to be terminated and the address where service is being rendered.
   b. The Commission rule or regulation that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
   c. The date on or after which service may be terminated.
   d. A statement advising the customer to contact the utility at a specific address or phone number for information regarding any deferred payment or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.
   e. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address or phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service.

E. Timing of terminations with notice

1. Each utility shall be required to give at least ten days advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.
4. Service may only be disconnected in conjunction with a personal visit to the premises by an authorized representative of the utility.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.

F. Landlord/tenant rule

1. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:
   a. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
   b. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (E) effective September 28, 1982 (Supp. 82-5).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-411. 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 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
   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 one year and shall be available for inspection by the Commission.

B. 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 the on site manager of its operations.
2. Each utility shall give notice, by filing a written statement with the Commission, of any change in the information

required herein within five days from the date of any such change.

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

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

D. Accounts and records

1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the NARUC Uniform Systems of Accounts for Class A, B, C and D Water Utilities.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Energy Regulatory Commission.

E. Maps

1. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

F. Variations, exemptions of Commission rules and regulations

1. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 4) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

G. Prior agreements

1. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended subsection (D) effective September 28, 1982 (Supp. 82-5). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

ARTICLE 5. TELEPHONE UTILITIES

R14-2-501. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a construction agreement, which may be refundable.
2. "Applicant". A person or agency requesting the utility to supply telephone service.
3. "Application". A request to the utility for telephone 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. "Basic exchange service". Service provided to business or residential customers at a flat or measured rate which affords access to the telecommunications network.
6. "Billing period". The time interval between the issuance of two consecutive bills for utility service.
7. "Central office". The switching equipment and operating arrangements which provide exchange and long distance service to the public and interconnection of customer telecommunication services.
8. "Contribution in aid of construction". Funds provided to the utility by the applicant under the terms of a construction agreement or construction tariff which are not refundable.

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. "Day". Calendar day.
11. "Line extension". The lines and equipment necessary to provide service to additional customers.
12. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
13. "Service access point". A demarcation point where facilities owned, leased, or under license by a customer connect to the utility provided access line.
14. "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.
15. "Residential subdivision development". Any tract of land which has been divided into four or more contiguous lots with an average size of one acre or less for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
16. "Rules". The regulations set forth in the tariffs which apply to the provision of telephone service.
17. "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 telephone service.
18. "Service charge". The charge as specified in the utility's tariffs which covers the cost of establishing moving, changing or reconnecting service or equipment.
19. "Access line". A communications facility that connects service from a common distribution source to the service access point.
20. "Tariffs". The documents filed with the Commission which list the utility 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.
21. "Terminal equipment". The equipment through which communication services are furnished.
22. "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.
23. "Toll service". Service between stations in different exchange areas for which a long distance charge is applicable.
24. "Utility". The company providing telephone service to the public in compliance with state law.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-502. Certificate of Convenience and Necessity for telephone utilities; additions/extensions; abandonments

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. A copy of the Articles of Partnership or Articles of Incorporation for the applicant and/or Bylaws if the utility is a non-profit organization, or association.
   c. The rates proposed to be charged for the service that will be rendered.
   d. A financial statement setting forth the financial condition of the applicant.
   e. Maps of the proposed service area and/or a description of the area proposed to be served.
   f. Appropriate city, county and/or state agency approvals, where appropriate.
   g. 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 first five years of operation.
   h. Such other information as the Commission by order or the staff of the Utilities Division by written directive may request.
2. Once the applicant has satisfied the information requirements of this regulation, as well as any additional information required by the staff of the Commission's Utilities Division, the Commission shall, as expeditiously reasonably practicable, schedule hearings to consider such application.

B. Additions/extensions to existing Certificates of Convenience and Necessity
1. Each utility which extends utility service to a person not located within its certificated service area, but located in a non-certificated area contiguous to its certificated service area, shall, notify the Commission of such service extension.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-503. 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).
   b. Service address or location and telephone number
   c. Billing address, if different than service address.
   d. Address and telephone number where service was provided previously.
   e. Date applicant will be ready for service.
   f. Indication of whether premises have been supplied with telephone utility service previously.
   g. Class of service to be provided.
   h. Indication of whether applicant is owner or tenant of or agent for the premises.
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 two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one 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 continuous telephone service of a comparable nature with the utility at another service location within the past two years and was not delinquent in payment more than once during the last 12 consecutive months or disconnected for nonpayment.

b. The applicant can produce a letter regarding credit or verification from a telephone utility where service of a comparable nature was last received which states:
i. Applicant had a timely payment history at time of service discontinuation.
ii. Applicant has no outstanding liability from prior service.
c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from an existing customer with service who is acceptable to the utility or a surety bond as security for the utility. The utility shall review and release an existing customer as a guarantor for the new applicant after 12 consecutive months if no obligations are delinquent and has maintained a timely payment history.

2. The utility 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 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 policy 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 after 12 months of service if the customer has not been delinquent in the payment of utility bills or applied to the closing bill upon discontinuance of service.
5. A utility may require a residential customer to establish a deposit if the customer becomes delinquent in the payment of two or more 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 two times that customer's estimated average monthly bill or the average monthly bill for the customer class for that customer which ever is greater.
b. Nonresidential customer deposits shall not exceed two and one-half 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.

C. Grounds for refusal of service
1. A utility may refuse to establish service if any of the following conditions exist:
a. The applicant has an outstanding amount due for similar utility services and the applicant is unwilling to make acceptable arrangements with the utility for payment.
b. 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.
c. 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.
d. Customer is known to be in violation of the utility's tariffs filed with the Commission.
e. Failure of the customer to furnish such funds, suitable facilities, and/or rights-of-way necessary to serve the customer and which have been specified by the utility as a condition for providing service.
f. Applicant falsifies 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.
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.
3. For the purpose of this rule, service establishments are where the customer's and utility's facilities are ready and acceptable.

E. Temporary service
1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the funds provided under the terms of a construction agreement or the cost of installing and removing the facilities necessary for furnishing the desired service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. If at any time the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's construction agreement or tariff shall apply.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-504. Minimum customer information requirements

A. Information for residential customers
1. Each utility shall make available upon customer request not later than 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 charges for basic service and incremental ancillary services requested by the applicant.
2. 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. Terminations of service
c. Billing and collection
d. Complaint handling.

B. Information required due to changes in tariffs
1. Each utility shall transmit to affected customers by the most economic means available a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-505. Service connections and establishments

A. Priority and timing of service establishments
1. After an applicant has complied with the utility's application, construction agreement, or tariff, deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service connection and/or establishment.

2. Service establishments shall be scheduled for completion within ten working days of the date the customer has been accepted for service, except in those instances when the customer requests service establishment beyond the ten working day limitation.
3. The maximum interval of ten working days applies to single line residence and business installations only. Multiline services and any special equipment configurations shall be installed within a reasonable time frame based on availability of necessary equipment.
4. When a utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the establishment to the satisfaction of both parties.
5. Unless another time frame is mutually acceptable to the utility and the customer, each utility shall schedule service establishment appointments within a maximum range of four hours during normal working hours.
6. For the purposes of this rule, service establishments are where the utility's and customer's facilities are available and the utility needs only to connect the service.

B. Access line connection
1. Provision of services beyond service access point
   a. Facilities beyond the service access point may be provided by either the utility or the customer. Where the facilities are provided by the customer the installation shall be in accordance with the utility's specifications.
   b. The cost of all new construction of inside customer premise wiring shall be the responsibility of the customer.
2. Company provided facilities
   a. The utility shall provide all facilities up to the service access point.
   b. A customer requesting an underground service connection in an area served by overhead facilities shall pay for the difference between the cost of an overhead service connection and the actual cost of the underground connection as a nonrefundable contribution. The customer may elect to provide the underground trenching on private property as an offsetting portion of the additional cost of the underground facilities.
   c. In those instances where the utility is supplying the customer's terminal equipment, the utility may provide any inside wiring beyond the point of access in accordance with approved tariffs filed with the Commission.
3. Easements and rights-of-way
   a. 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.
   b. When a utility discovers that a customer or 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 his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-506. Construction Agreements

A. General requirements
1. Each utility shall file for Commission approval a tariff which incorporates the provisions of this rule and specifically defines the conditions governing construction agreements. Subsections (A), (B), (C), and (D) of this Section do not apply to tariffs providing for construction charges fixed by zone.
2. Upon request by an applicant for service, the utility shall provide, without charge, a preliminary sketch and rough estimates of the cost of installation to be paid by said applicant.
3. Any applicant for service requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed construction. Where the applicant authorizes the utility to proceed with construction of the extension, the deposit shall be credited to the cost; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates.
4. Where the utility requires an applicant to advance funds for construction, the utility shall furnish the applicant with a copy of the agreement or tariff of the appropriate utility prior to the applicant's acceptance.
5. All construction agreements requiring payment by the applicant shall be signed by each party.
6. In the event the utility's actual cost of construction is less than the amount advanced by the customer under a construction agreement, the utility shall make a refund to the applicant within 120 days of service commencement.
7. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements
1. Each construction agreement shall, at a minimum, include the following information:
   a. Name and address of applicant or applicants
   b. Proposed service address or location
   c. Description of requested service
   d. Description and sketch of the requested construction
   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. Utility's estimated start date and completion date for construction
   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 construction.
2. Each applicant shall be provided with a copy of the construction agreement.

C. Construction requirements

1. Each construction 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 construction which exceed the maximum footage and/or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and costs associated with the construction. In those instances where the requested construction 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 construction economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a construction.
   c. The timing and methodology by which the utility will refund any advances in aid of construction as additional customers are served off the construction project. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the project. 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 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. Residential subdivision development and permanent mobile home parks
1. Each utility shall submit as a part of its construction tariff provisions for residential subdivision developments and permanent mobile home parks.

E. Underground extension of communication lines
1. Extension of communication lines necessary to furnish permanent communication service to new residential buildings or mobile homes within a new or undeveloped subdivision and to residential development in which facilities for communication 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 regulation and in accordance with applicable tariffs on file with this Commission except where it is not feasible from an engineering, operational or economic standpoint.
2. Rights-of-way and easements
   a. The utility shall construct or cause to be constructed and shall own, operate and maintain all underground communication feeder, 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 communication 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, the cost of such relocation shall be borne by the developer or subsequent owners.
3. Installation of underground communication lines within subdivision and multiple occupancy residential developments:
   a. The developer shall provide the trenching backfill (including any imported backfill required), compaction, repaving, and any earthwork required to install the underground communication system all in accordance with the reasonable specifications and schedules of other utilities in the same area when feasible. At its option, if the utility's cost therefore is equal to or less than that which the developer would otherwise have to bear, the utility may elect at the developer's expense to perform the activities necessary to fulfill the developer's responsibility hereunder.
   b. Each utility shall promptly inspect the trenching provided by the developer and allow for phased inspection of trenching. In all cases, the utility shall make every effort to expedite the inspection of developer provided trenching.
   c. The utility shall install or cause to be installed underground communication lines and related equipment in accordance with the applicable provisions of the 1997 edition (an no future editions) of ANSI C2 (National Electrical Safety Code) with sufficient capacity and suitable materials which shall assure adequate and reasonable communication service in the foreseeable future.
   d. When developer is required to provide a trench for other underground utilities and services, the utility shall use such common trench as long as the utility's design layout, easement specification, routing and scheduling requirements can be met, unless otherwise agreed upon by utility and developer in writing or as otherwise established by the Commission.
4. Special conditions
   a. When the application of any of the provisions of the regulation 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 regulation 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 communication lines in any new subdivision or new multiple occupancy residential development to which this regulation is applicable and which is contiguous to another subdivision or multiple occupancy residential development in which service is furnished underground without the approval of the Commission after a public hearing.

F. Nonapplicability
1. Any underground communication distribution system requiring more than normal communication service is not covered by this regulation and shall be constructed pursu-

ant to the effective rules and regulations of the affected utility as approved by the Commission.

G. Ownership of facilities
1. Any facilities installed hereunder shall be the sole property of the utility.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not certified by the Attorney General.

R14-2-507. Provision of Service

A. Utility responsibility
1. Each utility shall be responsible for maintaining in safe operating condition all equipment and fixtures used in providing utility service to the customer that are owned by and under the exclusive control of the utility.

B. Customer responsibility
1. 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.
2. Each customer shall be responsible for maintaining in safe operating condition all customer provided equipment and fixtures.
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, theft, 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/or use resulting from unauthorized use, interfering or tampering of the utility's equipment on the customer's premises.
5. Each customer shall notify the utility of any equipment failure identified in the utility's equipment.

C. Continuity of service
1. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from but not limited to:
   a. Any cause against which the utility could not have reasonably foreseen or made provision for, that is, force majeure.
   b. Intentional service interruptions to make repairs or perform routine maintenance of services constituting excusable negligence.

D. Service interruptions
1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of major interruptions in service affecting the entire system or any major division.

E. Construction standards
1. Each utility shall construct all facilities in accordance with the provisions of the 1997 edition (and no future editions) of ANSI C2 (National Electrical Safety Code), 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.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2). Amended effective August 16, 1996 (Supp. 96-3). Amended by exempt rulemaking at 5 A.A.R. 2054, effective June 4, 1999 (Supp. 99-2).

R14-2-508. Billing and collection

A. Frequency
1. Each utility shall bill monthly for services rendered.

B. Minimum bill information
1. Each utility shall provide the following minimum information on customer bills:
   a. Monthly charge for basic exchange service including delineation of the following:
      i. Total charge for customer requested services and/or equipment.
      ii. Installation costs or other service fees, where applicable.
      iii. Reconnect fee, where applicable.
   b. Toll charges broken down to include the following details by toll call:
      i. Date of call
      ii. Time of call
      iii. Location called
      iv. Phone number called
      v. Duration of call
      vi. Indication of any rate class applied.
   c. Miscellaneous charges and credits shall be shown separately.
   d. Any taxes included in the customer's billing.
   e. Total amount due and due date.
   f. Past due amount.
   g. Utility telephone number.
   h. Customer's name.
   i. Service account number.

C. Billing terms: Each utility shall file a tariff which incorporates the following billing procedures:
1. The billing date shall be printed on the bill and the date rendered shall be the mailing date.
2. Bills for telephone services may be considered delinquent 15 days after the date the bill is rendered.

3. Delinquent accounts for which payment has not been received may be terminated 22 days after the date the bill is rendered.
4. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.

D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes
1. Each customer shall be billed under the applicable tariff.
2. Each utility shall make provisions for advance payment for utility services.
3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
4. Charges for service commence when the service is installed and connection made, whether used or not.
5. In addition to the collection of regular rates, each utility may collect from the customer a proportionate share of any privilege, sales or use tax, or other imposition based on the gross revenues received by the utility.

E. Insufficient funds (NSF) checks
1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.
2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.

F. 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 due to the customer's inability to pay an outstanding bill in full 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 six 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
   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; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing 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 and, under such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

G. Late payment penalty
1. Each utility may include in its tariffs a late payment penalty which may be applied to delinquent bills.
2. The amount of the late payment penalty shall be indicated upon the customer's bill when rendered by the utility.
3. In the absence of an approved tariff, the amount of the late payment penalty shall not exceed 1-1/2% of the delinquent bill.

H. Change of responsibility or occupancy
1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the utility's office to discontinue service, to change occupancy or to change account responsibility.
2. The customer in whose name service is being rendered shall be responsible for all utility services provided and/or consumed up to the scheduled date of service discontinuation.
3. Existing business service may be continued for a new subscriber only if the former subscriber consents and an agreement acceptable to the utility is made to pay all outstanding charges against the service.
4. Change of responsibility on a residence account shall occur only in those cases where both parties previously shared telephone service.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-509. Termination of service

A. Nonpermissible reasons to disconnect service
1. A utility may not disconnect service for any of the reasons stated below:
   a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
   b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
   c. Residential service may not be disconnected due to nonpayment of a bill related to another class of service.
   d. Failure to pay for a bill to correct a billing error if the customer agrees to pay over a reasonable period of time.
   e. Failure to pay the bill of another customer as guarantor thereof unless guarantor does not make acceptable payment arrangements.

f. Disputed bills where the customer has complied with the Commission's rules on complaints.

B. Termination of service without notice

1. Utility service may be disconnected without advance written notice under the following conditions:
   a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
   b. The utility has evidence of tampering or evidence of fraud.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice

1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
   a. Customer violation of any of the utility's tariffs filed with the Commission and/or violation of the Commission's rules and regulations.
   b. Failure of the customer to pay a bill for utility service.
   c. Failure to meet or maintain the utility's credit and deposit requirements.
   d. Failure of the customer to provide the utility reasonable access to its equipment and property.
   e. Customer breach of contract for service between the utility and customer.
   f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
   g. Unauthorized resale of equipment or service.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements

1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
   a. The name of the person whose service is to be terminated and the telephone number where service is being rendered.
   b. The utility rules or regulation that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
   c. The date on or after which service may be terminated.
   d. A statement advising the customer to contact the utility at a specific phone number for information regarding any deferred billing or other procedures which the utility may offer or to work out some other mutually agreeable solution to avoid termination of the customer's service.

E. Timing of terminations with notice

1. Each utility shall be required to give at least five days advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.
4. The utility may terminate service on a temporary basis by discontinuing the customer's line access at the central office.
5. The utility shall have the right (but not the obligation) to remove any or all of its property installed on the customer's premises upon the termination of service.
6. The terms and conditions of these rules shall apply in all circumstances except those superseded by the provisions of the high toll usage notification procedures.

F. High toll usage monitoring/notification procedures

1. Each telephone utility may establish a high toll usage monitoring/notification system to identify unexplained or excessive increases in customer toll usage during interim periods between the issuance of bills in accordance with the utility's established billing cycle. The intent of such a monitoring/notification system is to enable telephone utilities to identify situations where it is unlikely that the customer will be able to pay for toll services already provided as well as to prevent the accrual of additional billings when the risk of loss is increasingly evident.
2. Each utility which establishes a high toll monitoring/notification system shall develop and operate such system and be governed by the following provisions and procedures:
   a. Each utility shall establish a "normal" amount of toll usage by customer class and length of service.
      i. The normal amount of toll usage shall be based upon the actual average usage by the customer class.
   b. Increases in toll usage shall not be considered unexplained or excessive until the amount of toll usage incurred between billing periods is at least two times the normal amount of monthly toll usage for that customer or customer class.
   c. When this situation occurs, the utility shall review:
      i. The individual customer's billing history to determine if the volume of toll usage should be considered excessive for that particular customer
      ii. Prior payment history
      iii. Amount of customer deposit held, if any
      iv. Length of customer service to assess the ability of the customer to pay such toll charges according to the payment terms of the utility when a normal billing is rendered.
   d. If the review of the customer's previous billing and payment history indicates it is unlikely that the customer shall be able to pay such bill, the utility may contact the customer to make inquiries concerning the abnormal usage. If the explanation is not satisfactory, the utility may require security and/or payment of charges on the account to continue service.
   e. The utility may terminate service provided the customer is given 48 hours advance notice and the cus-

tomer makes no further attempt to secure and or pay the account in order to continue service.

f. The 48-hour notification rule shall be waived and service may be terminated immediately in those situations where intentional customer abuse of toll usage is evident.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-510. 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 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. Upon request of the complainant or the Commission representative, the utility shall report the findings of its investigation in writing.
4. 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 complainant
   b. Date and nature of the complaint
   c. Disposition of the complaint
   d. A copy of any correspondence between the utility, the customer, and/or the Commission.
5. This record shall be maintained for a minimum period of 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 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.
3. Once the customer has received the results of the utility's investigation, the customer shall submit payment within five working days to the utility for any disputed amounts. Failure to make full payment shall be grounds for termination of service.
   a. Prior to termination inform the customer of his right of appeal to the Commission.

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 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.

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 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 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 30 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of

deficiency is issued until staff determines that the application is complete.

5. Within 150 days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
   a. Administrative completeness review time-frame: 30 calendar days,
   b. Substantive review time-frame: 150 calendar days,
   c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

F. Filing of rules and regulations

1. Each utility shall file with the Commission tariffs which are in compliance with the rules and regulations promulgated by the Arizona Corporation Commission within 120 days of the adoption of such rules by the Commission.
2. Any proposed changes to the tariffs on file with the Commission shall be accompanied by a statement of justification supporting the proposed change in tariff.
3. Any proposed change to the tariffs on file with the Commission shall not be effective until reviewed and approved by the Commission, except as provided for by law.

G. Accounts and records

1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the Uniform Systems of Accounts for Class A, B, C and D Telephone Utilities as adopted and amended by the Federal Communications Commission or, for telephone cooperatives, as promulgated by the Rural Electrification Administration.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.
6. All utilities shall file with the Commission a copy of all annual reports required by the Federal Communications Commission and in addition, for telephone cooperatives, annual reports required by the Rural Electrification Administration.

H. Maps

1. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

I. Variations, exemptions of Commission rules and regulations

1. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 5) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

J. Prior agreements

1. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

ARTICLE 6. SEWER UTILITIES

R14-2-601. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Advance in aid of construction". Funds provided to the utility by the applicant under the terms of a collection main extension agreement the value of which may be refundable.
2. "Applicant". A person requesting the utility to supply sewer service.
3. "Application". A request to the utility for sewer 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 two regular billings -- approximately 30 day interval.
6. "Billing period". The time interval between two consecutive billings.
7. "Collection main". A sewer main of the utility from which service collection lines are extended to customers.
8. "Commodity charge". The unit of cost per billed discharge as set forth in the utility's tariffs.
9. "Contributions in aid of construction". Funds provided to the utility by the applicant under the terms of a collection main extension agreement and/or service connection tariff the value of which are not refundable.
10. "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.

11. "Customer charge". The amount the customer must pay the utility for the availability of sewer service, excluding any amount of discharged, as specified in the utility's tariffs.
12. "Day". Calendar day.
13. "Minimum charge". The amount the customer must pay for the availability of sewer service, including an amount of discharge, as specified in the utility's tariffs.
14. "Permanent customer". A customer who is a tenant or owner of a service location who applies for and receives sewer service.
15. "Permanent service". Service which, in the opinion of the utility, is of a permanent and established character. The use of sewer service may be continuous, intermittent, or seasonal in nature.
16. "Person". Any individual, partnership, corporation, governmental agency, or other organization operating as a single entity.
17. "Point of collection". The point where pipes owned, leased, or under license by a customer connect to the utility's collection system.
18. "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.
19. "Residential subdivision development". Any tract of land which has been divided into four or more contiguous lots for use for the construction of residential buildings or permanent mobile homes for either single or multiple occupancy.
20. "Residential use". Service to customers discharging sewage for domestic purposes.
21. "Rules". The regulations set forth in the tariffs which apply to the provision of sewage service.
22. "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 sewer service.
23. "Service establishment charge". The charge as specified in the utility's Schedule of Rates which covers the cost of establishing a new account.
24. "Service line". A sewer line that transports sewage from a customer's point of collection to a common source (normally a collection main) of collection of the utility's.
25. "Service reconnect charge". The charge as specified in the utility's tariffs which must be paid by the customer prior to reconnection of sewer service each time the sewer service is disconnected for nonpayment or whenever service is discontinued for failure otherwise to comply with the utility's fixed rules.
26. "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.
27. "Sewage". Ground garbage, human or animal excretions, and other domestic, commercial or industrial waste normally disposed of through a sanitary sewer system.
28. "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.
29. "Tariffs". The documents filed with the Commission which list the services and products offered by the sewer company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
30. "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.
31. "Utility". The public service corporation providing sewer service to the public in compliance with state law.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-602. Certificate of Convenience and Necessity for sewer utilities; additions/extensions; abandonments

A. Application for new Certificate of Convenience and Necessity

1. Any person or entity who desires to construct and/or operate a sewer utility will, prior to commencement of construction of utility facilities, file an application for a Certificate of Convenience and Necessity with the Arizona Corporation Commission.
2. 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. A copy of the Articles of Co-Partnership or Articles of Incorporation for the applicant and/or Bylaws if the utility is a non-profit organization or association.
   c. The type of plant, property, or facility proposed to be constructed.
   d. A complete description of the facilities proposed to be constructed, including preliminary engineering specifications in sufficient detail to properly describe the principal systems and components, and final and complete engineering specifications when they become available.
   e. The rates proposed to be charged for the service that will be rendered because of the proposed construction.
   f. The estimated total cost of the proposed construction.
   g. The manner of capitalization and method of financing for the project.
   h. The financial condition of the applicant.
   i. The estimated annual operating revenues and expenses that are expected to accrue from the proposed construction.
   j. The estimated starting and completion date of the proposed construction.
   k. Maps of the proposed service area.
   l. Appropriate city, county and/or state agency approvals.
   m. Estimated number of customers to be served for the first five years of operation, including documentation to support the estimates.
3. Upon the receipt of such application, the Commission staff shall review the application for compliance with the information requirements of this regulation; additional information, amendments and/or corrections to the application to bring the application into compliance with this regulation shall be governed by the Commission's rules of administrative and hearing requirements concerning incomplete applications.
4. Once the applicant has satisfied the information requirements of this regulation, the Commission shall, as expedi-

tiously as reasonably practicable, schedule hearings to consider such application.

B. Additions/extensions to existing Certificates of Convenience and Necessity

1. Each utility which proposes to extend utility service to a person not located within its certificated service area, but located in a non-certificated area contiguous to its certificated service area, shall, prior to the extension of service, notify the Commission of such service extension. Such notification shall be in writing and shall be verified and shall set forth, at a minimum, the number of persons or entities proposed to be served by such service extension, their location in relation to the certificated area of the utility and a statement of the utility that the service extension is to a non-certificated area which is contiguous to its certificated area. Where emergency service is required to be provided to a customer in a non-certificated area contiguous to the utility certificated area, the utility shall advise the Commission simultaneously of such extension and the written notification shall set forth the nature and extent of the emergency.

C. Application for authority to abandon, sell, lease, transfer, or otherwise dispose of a utility

1. Any utility proposing to sell, lease, transfer, or otherwise dispose of the utility shall, prior to such sale, lease, transfer, or other disposal, file an application for authority to do so including the following information:
   a. The address of the applicant.
   b. A description of the utility property proposed to be abandoned, sold, leased, transferred or otherwise disposed of.
   c. The financial condition of the applicant.
   d. The name of the purchaser, lessee or assignee.
   e. The terms and conditions of the proposed abandonment, sale, lease, or assignment and copies of any agreement which has been or will be executed concerning the same.
   f. The effect of the proposed transaction upon the service of the applicant.
   g. The method by which the proposed transaction is to be financed.
   h. The effect the proposed transaction will have on any other utility and, if so, in what respect.

D. Application for discontinuance or abandonment of utility service

1. Any utility proposing to discontinue or abandon any type of 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.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-603. 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).
   b. Service address or location and telephone number.
   c. Billing address or location and 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.
2. Each 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 two or more individuals the utility shall have the right to collect the full amount owed to the utility from any one of the applicants.

B. Deposits

1. A utility may require a deposit from any new applicant for service.
2. The utility 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 right to receive a refund of the deposit which is reflected on the utility's records.
3. Interest on deposits shall be calculated annually at an interest rate filed by the utility and approved by the Commission in a tariff proceeding. In the absence of such, the interest rate shall be 6%.
4. Interest shall be credited to the customer's bill annually.
5. Residential deposits shall be refunded within 30 days after:
   a. 12 consecutive months of service without being delinquent in the payment of utility bills provided the utility may reestablish the deposit if the customer becomes delinquent in the payment of bills three or more times within a 12 consecutive month period.
   b. Upon discontinuance of service when the customer has paid all outstanding amounts due the utility.
6. A separate deposit may be required for each service installed.
7. The amount of a deposit required by the utility shall be determined according to the following terms:
   a. Residential customer deposits shall not exceed two times the average residential class bill as evidenced by the utility's most recent annual report filed with the Commission.
   b. Nonresidential customer deposits shall not exceed two and one-half times that customer's estimated maximum monthly bill.
8. The utility may review the customer's discharge after service has been established and adjust the deposit amount based upon the customer's actual discharge.
9. Upon discontinuance of service, the deposit may be applied by the utility toward settlement of the customer's bill.

C. Grounds for refusal of service

1. A utility may refuse to establish service if any of the following conditions exist:
   a. The applicant has an outstanding amount due for the same class of utilities services with the utility, and the applicant is unwilling to make arrangements with the utility for payment.
   b. 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.

c. Refusal by the applicant to provide the utility with a deposit.
d. Customer is known to be in violation of the utility's tariffs filed with the Commission or of the Commission's rules and regulations.
e. 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.

D. Service establishments, re-establishments or reconnect charge
1. A utility may make a charge as approved by the Commission for the establishment, reestablishment, or reconnection of utility service.
2. For the purpose of this rule, service establishments are where the customer's facilities are ready and acceptable to the utility and do not require construction on the part of the utility.

E. Temporary service
1. Applicants for temporary service may be required to pay the utility, in advance of service establishment, the estimated cost of installing and removing the facilities necessary for furnishing sewer service.
2. Where the duration of service is to be less than one month, the applicant may also be required to advance a sum of money equal to the estimated bill for service.
3. Where the duration of service is to exceed one month, the applicant may also be required to meet the deposit requirements of the utility.
4. If at any time during the term of the agreement for service the character of a temporary customer's operations changes so that in the opinion of the utility the customer is classified as permanent, the terms of the utility's main extension rules shall apply.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-604. Minimum customer information requirements

A. Information for residential customers
1. Each utility shall make available upon customer request not later than 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. Monthly minimum or customer charge, identifying the amount of the charge and the specific amount of minimum discharge included in the minimum charge, where applicable.
   b. Rate calculation, including where applicable, computations based upon seasonal or annual water usages.
2. The utility shall to the extent practical identify the tariff 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 the date of request a copy of the Commission's rules and regulations governing:
   a. Deposits
   b. Terminations of service
   c. Billing and collection
   d. Complaint handling.
4. Each utility shall inform all new customers of their rights to obtain the information specified above.

B. Information required due to changes in tariffs
1. Each utility shall transmit to affected customers by the most economic means available a concise summary of any change in the utility's tariffs affecting those customers.
2. This information shall be transmitted to the affected customer within 60 days of the effective date of the change.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-605. Service connections

A. Priority and timing
1. After an applicant has complied with the utility's application and deposit requirements and has been accepted for service by the utility, the utility shall schedule that customer for service connection.
2. Service connections shall be scheduled for completion within five working days of the date the customer has been accepted for service, except in those instances when the customer requests service connection beyond the five working day limitation.
3. When the utility has made arrangements to meet with a customer for service establishment purposes and the utility or the customer cannot make the appointment during the prearranged time, the utility shall reschedule the connection to the satisfaction of both parties.
4. For the purposes of this rule, establishment of service takes place only when the customer's facilities are ready and acceptable to the utility.

B. Customer provided facilities
1. An applicant for service shall be responsible for the installation of all plumbing up to the applicant's property line. In addition, the applicant is responsible for the proper grade or leveling of the sewer connection so that it conforms with the collection system of the utility.
2. Funds collected for service connections may be nonrefundable contributions to the utility.

C. Customer provided equipment safety and operation
1. Each customer shall be responsible for maintaining all equipment and facilities using or used for utility services located on his side of the point of collection in safe operating condition.

D. 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 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 his agent and shall take whatever actions are necessary to eliminate the hazard, obstruction or violation at the customer's expense.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-606. Collection main extension agreements

A. General requirements
1. Each utility entering into a main extension agreement shall comply with the provisions of this rule, which specifically defines the conditions governing collection main extensions.
2. Upon request by a potential applicant for a collection main extension, the utility shall prepare, without charge,

a preliminary sketch and rough estimate of the cost of installation to be paid by said applicant.

3. Any applicant for a collection main extension requesting the utility to prepare detailed plans, specifications, or cost estimates may be required to deposit with the utility an amount equal to the estimated cost of preparation. The utility shall, upon request, make available within 90 days after receipt of the deposit referred to above, such plans, specifications, or cost estimates of the proposed collection main extension. Where the applicant accepts the plans and the utility proceeds with construction of the extension, the deposit shall be credited to the cost of construction; otherwise the deposit shall be nonrefundable. If the extension is to include oversizing of facilities to be done at the utility's expense, appropriate details shall be set forth in the plans, specifications and cost estimates.
4. Where the utility requires an applicant to advance funds for a collection main extension, the utility shall furnish the applicant with a copy of the extension tariff of the appropriate utility prior to the applicant's acceptance of the utility's extension agreement.
5. All collection main extension agreements requiring payment by the applicant shall be in writing and signed by each party before the utility commences construction.
6. In the event the utility's actual cost of construction is different from the amount advanced by the customer, the utility shall make a refund to or collect additional funds from, the applicant within 120 days after the completion of the construction.
7. The provisions of this rule apply only to those applicants who in the utility's judgment will be permanent customers of the utility. Applications for temporary service shall be governed by the Commission's rules concerning temporary service applications.

B. Minimum written agreement requirements

1. Each collection main extension agreement shall, at a minimum, include the following information:
   a. Name and address of applicant(s)
   b. Proposed service address or location
   c. Description of requested service
   d. Description and sketch of the requested main extension
   e. A cost estimate to include materials, labor, and other costs as necessary
   f. Payment terms
   g. A clear and concise explanation of any refunding provisions, if appropriate
   h. The utility's estimated start date and completion date for construction of the collection main extension
2. Each applicant shall be provided with a copy of the written collection main extension agreement.

C. Main extension requirements

1. Each main 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 main extensions which exceed the maximum footage and/or equipment allowance. Such economic feasibility analysis shall consider the incremental revenues and cost associated with the main extension. In those instances where the requested main 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 main extension economically feasible. The methodology employed by the utility in determining economic feasibility shall be applied uniformly and consistently to each applicant requiring a main 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 main extension. The customer may request an annual survey to determine if additional customers have been connected to and are using service from the main 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 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. Residential subdivision development and permanent mobile home parks

1. Each utility shall submit as a part of its main extension tariff separate provisions for residential subdivision developments and permanent mobile home parks.

E. Ownership of facilities

1. Any facilities installed hereunder shall be the sole property of the utility.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-607. Provision of service

A. Utility responsibility

1. Each utility shall be responsible for the safe conduct and handling of the sewage from the customer's point of collection.
2. The utility 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 facilities on the customer's premises in safe operating condition and in accordance with the rules of the state Department of Health.
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.

C. Continuity of service

1. Each utility shall make reasonable efforts to supply a satisfactory and continuous level of service. However, no utility shall be responsible for any damage or claim of damage attributable to any interruption or discontinuation of service resulting from:
   a. Any cause against which the utility could not have reasonably foreseen or made provision for, i.e., force majeure
   b. Intentional service interruptions to make repairs or perform routine maintenance
   c. Any temporary overloading of the utility's collection or treatment facilities.

D. Service interruption

1. Each utility shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur.
2. Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.
3. In the event of a national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.
4. When a utility plans to interrupt service for more than four hours to perform necessary repairs or maintenance, the utility shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the utility.
5. The Commission shall be notified of interruptions in service affecting the entire system or any major division thereof. The interruption of service and cause shall be reported within four hours after the responsible representative of the utility becomes aware of said interruption by telephone to the Commission and followed by a written report to the Commission.

E. Construction standards
1. The design, construction and operation of all sewer plants shall conform to the requirements of the Arizona Department of Health Services or its successors and any other governmental agency having jurisdiction thereof. Phase construction is acceptable.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-608. Billing and collection

A. Frequency
1. Each utility shall bill monthly for services rendered.

B. Minimum bill information
1. Each bill for residential service will contain the following minimum information:
   a. Billed discharge, where applicable
   b. Utility telephone number
   c. Amount due and due date
   d. Customer's name
   e. Service account number, if available
   f. Past due amount, where appropriate
   g. Adjustment factor, where applicable
   h. Other approved tariff charges.

C. Billing terms
1. All bills for utility services are due and payable no later than ten days from the date the bill is rendered. Any payment not received within this time frame shall be considered past due.
2. For purposes of this rule, the date a bill is rendered may be evidenced by:
   a. The postmark date
   b. The mailing date.
3. All past due bills for utility services are due and payable within ten days. Any payment not received within this time frame shall be considered delinquent.
4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.
5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.

D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes
1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
2. Each utility shall make provisions for advance payment for sewer services.
3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
4. Charges for service commence when the service is installed and connection made, whether used or not.
5. In addition to the collection of regular rates, each utility may collect from its customers a proportionate share of any privilege, sales or use tax, or other imposition based on the gross revenues received by the utility.

E. Insufficient funds (NSF) checks
1. A utility shall be allowed to recover a fee, as approved by the Commission for each instance where a customer tenders payment for utility service with an insufficient funds check.
2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.
3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.

F. Late payment penalty
1. Each utility may include in its tariffs a late payment penalty tariff which may be applied to delinquent bills.
2. The amount of the late payment penalty shall be indicated upon the customer's bill when rendered by the utility.
3. In the absence of an approved tariff, the amount of the late payment penalty shall not exceed 1-1/2% of the delinquent bill.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

R14-2-609. Termination of service

A. Nonpermissible reasons to disconnect service
1. A utility may not disconnect service for any of the reasons stated below:
   a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
   b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
   c. Nonpayment of a bill related to another class of service.
   d. Failure to pay for a bill to correct a previous underbilling due to a billing error if the customer agrees to pay over a reasonable period of time.
   e. Disputed bills where the customer has complied with the Commission's rules and regulations.

B. Termination of service without notice
1. Utility service may be disconnected without advance written notice under the following conditions:
   a. The existence of an obvious hazard to the safety or health of the consumer or the general population.
   b. The utility has evidence of fraud.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice
1. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
   a. Customer violation of any of the Commission's rules.
   b. Failure of the customer to pay a delinquent bill for utility service.
   c. Failure to meet or maintain the utility's credit and deposit requirements.
   d. Failure of the customer to provide the utility reasonable access to its equipment and property.
   e. Customer breach of a written contract for service between the utility and customer.
   f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.
2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. Termination notice requirements
1. No utility shall terminate service to any of its customers without providing advance written notice to the customer of the utility's intent to disconnect service, except under those conditions specified where advance written notice is not required.
2. Such advance written notice shall contain, at a minimum, the following information:
   a. The name of the person whose service is to be terminated and the address where service is being rendered.
   b. The Commission rule or regulation that was violated and explanation thereof or the amount of the bill which the customer has failed to pay in accordance with the payment policy of the utility, if applicable.
   c. The date on or after which service may be terminated.
   d. A statement advising the customer that the utility's stated reason for the termination of services may be disputed by contacting the utility at a specific address of phone number, advising the utility of the dispute and making arrangements to discuss the cause for termination with a responsible employee of the utility in advance of the scheduled date of termination. The responsible employee shall be empowered to resolve the dispute and the utility shall retain the option to terminate service after affording this opportunity for a meeting and concluding that the reason for termination is just and advising the customer of his right to file a complaint with the Commission.

E. Timing of terminations with notice
1. Each utility shall be required to give at least five days' advance written notice prior to the termination date.
2. Such notice shall be considered to be given to the customer when a copy thereof is left with the customer or posted first class in the United States mail, addressed to the customer's last known address.
3. If after the period of time allowed by the notice has elapsed and the delinquent account has not been paid nor arrangements made with the utility for the payment thereof or in the case of a violation of the utility's rules the customer has not satisfied the utility that such violation has ceased, the utility may then terminate service on or after the day specified in the notice without giving further notice.

F. Landlord/tenant rule
1. In situations where service is rendered at an address different from the mailing address of the bill or where the utility knows that a landlord/tenant relationship exists and that the landlord is the customer of the utility, and where the landlord as a customer would otherwise be subject to disconnection of service, the utility may not disconnect service until the following actions have been taken:
   a. Where it is feasible to so provide service, the utility, after providing notice as required in these rules, shall offer the occupant the opportunity to subscribe for service in his or her own name. If the occupant then declines to so subscribe, the utility may disconnect service pursuant to the rules.
   b. A utility shall not attempt to recover from a tenant or condition service to a tenant with the payment of any outstanding bills or other charges due upon the outstanding account of the landlord.

Historical Note
Adopted effective March 2, 1982 (Supp. 82-2).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

R14-2-610. 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 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 should the results of the utility's investigation prove unsatisfactory to the customer.
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
   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 one year and shall be available for inspection by the Commission.

B. 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 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 five days from the date of any such change.

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

D. Accounts and records
1. Each utility shall keep general and auxiliary accounting records reflecting the cost of its properties, operating income and expense, assets and liabilities, and all other accounting and statistical data necessary to give complete and authentic information as to its properties and operations.
2. Each utility shall maintain its books and records in conformity with the NARUC Uniform Systems of Accounts for Class A, B, C and D Sewer Utilities.
3. A utility shall produce or deliver in this state any or all of its formal accounting records and related documents requested by the Commission. It may, at its option, provide verified copies of original records and documents.
4. All utilities shall submit an annual report to the Commission on a form prescribed by it. The annual report shall be filed on or before the 15th day of April for the preceding calendar year. Reports prepared by a certified or licensed public accountant on the utility, if any, shall accompany the annual report.
5. All utilities shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.

E. Maps
1. All utilities shall file with the Commission a map or maps clearly setting forth the location and extent of the area or areas they hold under approved certificates of convenience and necessity, in accordance with the Cadastral (Rectangular) Survey of the United States Bureau of Land Management, or by metes and bounds with a starting point determined by the aforesaid Cadastral Survey.

F. Variations, exemptions of Commission rules and regulations
1. Variations or exemptions from the terms and requirements of any of the rules included herein (Title 14, Chapter 2, Article 6) shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission rules and regulations. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and regulations and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

G. Prior agreements
1. The adoption of these rules by the Commission shall not affect any agreements entered into between the utility and customers or other parties who, pursuant to such contracts, arranged for the extension of facilities in a provision of service prior to the effective date of these rules.

Historical Note

Adopted effective March 2, 1982 (Supp. 82-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

ARTICLE 7. RESOURCE PLANNING

R14-2-701. Definitions

The following definitions shall apply unless the context otherwise requires:
1. "Appliance efficiency" - the energy usage per unit of output of a particular type of energy-using equipment.
2. "Appliance saturation" - the proportion of customers in a given customer class who have a particular type of energy-using equipment.
3. "Average price" - revenue from the customer class divided by the number of kilowatt hours sold to that customer class.
4. "Baseload demand" - demand for energy that is insensitive to temperature.
5. "Benchmark" - to calibrate against a known set of values or standards.

6. "Book life" - the expected time period over which a power supply source will be available for use by the utility.
7. "Capacity" - the amount of electric power which a power source is rated to provide, either by the user, the supplier, or the manufacturer.
8. "Capital costs" - the construction and installation cost of facilities including land, land rights, structures, and equipment.
9. "Cogeneration" - the sequential production of electricity and heat, steam, or useful work from the same fuel source.
10. "Customer class" - a group of customers with similar characteristics such as amount of energy consumed, amount of demand placed on the energy supply system at the system peak, hourly, daily, or seasonal load pattern, type of activity engaged in by the customer, and location. Customer classes may include residential, commercial, industrial, agricultural, municipal, and other categories.
11. "Decommissioning" - the process of safely and economically removing a unit from service.
12. "Degree day" - the difference in degrees Fahrenheit between the reference temperature and the average temperature for a particular day. The average temperature is the high temperature plus the low temperature divided by two. If a day's average temperature exceeds the reference temperature, the day is a cooling degree day; if the day's average temperature is less than the reference temperature, the day is a heating degree day.
13. "Demand management" - beneficial reduction in the total cost of meeting electric energy service needs by reducing or shifting in time the demand for electricity.
14. "Derating" - reduction in a unit's capacity.
15. "Discount rate" - the interest rate used to calculate the present value of a cost or other economic variable.
16. "End use" - the final application of electric energy such as heating, cooling, running a particular appliance, or lighting.
17. "Energy losses" - electric energy not available for sale to end users, for resale, or for use by the utility, attributable to transmission, conversion, distribution, and unaccounted for losses.
18. "Escalation" - the change in costs due to inflation, changes in manufacturing processes, availability of labor or materials, or other factors.
19. "Forced outage rate" - the proportion of hours in a period, excluding those hours set aside for planned outages, in which a power source, such as a generating unit, suffers unplanned outages due to unplanned component failures or other conditions requiring that the source be removed from service immediately or before the next planned outage.
20. "Heat rate" - a measure of generating station thermal efficiency expressed in British thermal units (Btus) per net kilowatt hour and computed by dividing the total Btu content of fuel used for electric generation by the kilowatt hours of electricity generated.
21. "Household income pattern" - the proportion of households falling in each of several income ranges.
22. "Interchange" - electric energy received by the electric utility from another provider of electricity or supplied by the electric utility to another provider of electricity which is not purchased or sold under the terms of a long-term agreement.
23. "Interruptible power" - power made available under agreements which permit curtailment or cessation of delivery by the supplier.
24. "In-service date" - the date a power supply source becomes available for use by the utility.
25. "Maintenance" - the repair of generation, transmission, distribution, and administrative and general facilities, replacement of minor items, and installation of materials to preserve the efficiency and working condition of the facilities.
26. "Maintenance schedule" - the specific days during which a power production unit is removed from service for inspection or overhaul of one or more major components; such work is planned well in advance.
27. "Mothballing" - the temporary removal of a unit from active service and accompanying long-term storage activities.
28. "Operate" - to manage or otherwise be responsible for the production of electricity from a generating facility, whether that facility is owned by the operator, in whole or in part, or whether that facility is owned by another entity.
29. "Operating costs" - the power production costs that are directly related to producing electricity.
30. "Participation rate" - the proportion of customers who take part in a specific program.
31. "Probabilistic analysis" - a systematic evaluation of the effect on costs, reliability, or other measures of performance of the range of possible events affecting factors which influence performance, considering the chances that the events will occur.
32. "Production cost" - the variable operating and maintenance cost (including fuel cost) of producing electricity through generation and purchases of power sufficient to meet demand.
33. "Refurbish" - to make major changes in the power production, transmission, or distribution characteristics of a component of the power supply system more extensive than maintenance or repair, such as changing the fuels which can be used in a generating unit or changing the capacity of a generating unit.
34. "Reliability" - a measure of the ability of the utility's generation, transmission, and distribution systems to provide power without failures. Reliability should be measured separately for generation, transmission, and distribution systems. Measures may reflect the proportion of time that each system is unable to meet demand or the kilowatt hours of demand that could not be supplied.
35. "Reserve requirements" - the capacity which the utility must maintain in excess of its peak load to provide for scheduled maintenance, forced outages, unforeseen loads, emergencies, system operating requirements, and power pool requirements.
36. "Resource planning" - integrated supply and demand analysis for the purpose of identifying the means of meeting electric energy service needs at the lowest total cost, taking into account uncertainty.
37. "Self generation" - the production of electricity by an end user by any means including cogeneration.
38. "Sensitivity analysis" - a systematic assessment of the degree of response of costs, reliability, or other measures of performance to changes in assumptions about factors which influence performance.
39. "Spinning reserve" - the capacity which the utility must maintain connected to the system and ready to deliver power promptly. The capacity may be expressed as a per-

centage of peak load, as a percentage of the largest unit, or as fixed megawatts.

40. "Total cost" - all capital, operating, maintenance, fuel, and decommissioning costs incurred in the provision or conservation of electric energy services borne by end users, utilities, or others, and any adverse environmental effects.
41. "Unit" - a specific device or set of devices that converts one form of energy (such as heat or solar energy) into electric energy such as a turbine and generator or set of photovoltaic cells; a power plant may have multiple units.
42. "Utility" - the entity providing electric service to the public.

Historical Note
Adopted effective February 3, 1989 (Supp. 89-1).

R14-2-702. Applicability

A. All electric utilities under the jurisdiction of the Commission pursuant to Arizona Constitution Art. XV and Arizona Revised Statutes Title 40 which operate or own (in part or in whole) generating facilities, whether the power generated is for sale to end users or is for resale, are subject to the provisions of this Article.

B. Any other electric utility under the jurisdiction of the Commission pursuant to Arizona Constitution Art. XV and Arizona Revised Statutes Title 40 is subject to the provisions of this article upon 2 years' notice by the Commission.

C. The Commission may exempt a utility from these requirements upon a demonstration by the utility that the burden of compliance with this Article exceeds the potential for cost savings resulting from its participation.

Historical Note
Adopted effective February 3, 1989 (Supp. 89-1).

R14-2-703. Utility reporting requirements

A. Demand side data. Each utility shall provide the Commission staff the demand data in subsection (A)(1) through (9) below, within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates, such as sample survey data, application of factors from 1 year's data to another year, or other methods, and fully describe how such estimates were made.

1. Hourly demand for the previous calendar year disaggregated by:
   a. Sales to end users,
   b. Sales for resale,
   c. Energy losses, and
   d. Other disposition of energy such as energy furnished without charge and energy used by the utility.
2. If available, hourly demand for the previous calendar year disaggregated by:
   a. Residential customers,
   b. Nonresidential customers by customer class and by type of business,
   c. Entitles purchasing power for resale.
3. Coincident peak demand (megawatts) and energy demand (megawatt hours) by month for the previous ten years disaggregated by customer class and, for nonresidential customers, if available, disaggregated by type of business.
4. Number of customers by customer class by year for the previous ten years.
5. Heating and cooling degree days by month for the previous ten years. The utility may provide these data by climatic region at its option.
6. Residential customer characteristics and end use data collected in the last ten years which the utility has available, including:
   a. Mix of dwelling unit types (single family, multifamily, mobile homes),
   b. Household income patterns,
   c. Appliance saturation by types of appliance,
   d. Appliance saturation by household income pattern and dwelling unit type,
   e. End use metering data,
   f. Appliance efficiency data,
   g. Appliance connected load data, and
   h. Data relating customer usage and heating and cooling degree days or temperature.
7. Nonresidential customer characteristics and usage data collected in the last ten years which the utility has available, including:
   a. Number of customers by type of business,
   b. Number of employees by type of business,
   c. Electricity usage by major end use of power including space cooling, and
   d. Hourly demand for major types of industrial and commercial customers for baseload, heating, and cooling uses.
8. Reduction in load due to existing demand management measures, by type of demand management measure, in the previous calendar year.
9. Annual average prices of electricity charged to each nonresidential customer class, by type of business, and to residential customers, for the previous ten years.

B. Supply side data. Each utility shall provide the Commission staff the supply data indicated in subsection (B)(1) through (4) within 90 days of the effective date of these rules and shall provide staff with updated and revised data by April 1 of each year thereafter. If records are not maintained for any item, the utility shall provide its best estimates and fully describe how those estimates were made.

1. For each generating unit and purchased power contract for the previous calendar year:
   a. In-service date,
   b. Book life or contract period,
   c. Capacity in megawatts (utility share),
   d. Maximum unit or contract capacity by hour, day, or month, if such capacity varies over the year.
   e. Forced outage rate (generating units only),
   f. Average heat rate of generating units and, if available, heat rates at selected output levels,
   g. Fuel cost for generating units in dollars per million Btu for each type of fuel,
   h. Other variable operating and maintenance costs for generating units in dollars per megawatt hour,
   i. Purchased power energy costs for contract purchases in dollars per megawatt hour,
   j. Fixed operating and maintenance costs of generating units in dollars per megawatt for the year,
   k. Demand charges for purchased power,
   l. Fuel types for generating units,
   m. Minimum capacity at which the unit would be run or power must be purchased,
   n. Whether, under standard operating procedures, the generating unit must be run if it is available to run,
   o. Maintenance schedules for generating units,

p. Other data related to generation units and purchased power contracts which the utility uses in its production, planning, and supply models.

2. For the power supply system for the previous calendar year:
   a. A description of unit commitment procedures,
   b. Production cost,
   c. Reserve requirements,
   d. Spinning reserve,
   e. Reliability of generating, transmission, and distribution systems,
   f. Interchange purchase and sale prices, and
   g. Energy losses.
3. The level of cogeneration and other forms of self generation in the utility's service area for the previous calendar year.
4. As available, a description and map of the utility's transmission system, including the capacity of each segment of the transmission system.

C. Demand forecasts. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item.

1. Ten-year forecast of system coincident peak load (megawatts) and energy demanded (megawatt hours) by month and year, separately for residential, commercial, industrial, interruptible, and other customers, for resale, and for energy losses.
2. Hourly demand forecasts for ten years, if requested by staff.
3. Disaggregation of the demand forecast of paragraph (1) of this subsection into a component in which no additional demand management measures are assumed, and a component indicating the change in load due to forecasted demand management measures.
4. Descriptions of demand management programs and measures included in the demand forecast, including:
   a. Plans for implementing the demand management measures,
   b. The participation rate of customers by customer class with regard to each demand management measure,
   c. The expected change in demand resulting from each of the measures, and
   d. The life of each program.
5. Description of each demand management program which was considered but rejected and the reasons for rejecting each program.
6. The capital and operating and maintenance costs of each demand management measure considered, including practical measures which were rejected.
7. Documentation of all data, analyses, methods, and assumptions used in making the demand forecasts, including:
   a. A description of how the forecasts were benchmarked,
   b. Justifications for selecting the methods and assumptions used, and
   c. If requested by the staff, data used in the analyses.

D. Supply plans. Each utility shall provide the following data and analyses to the Commission by December 31, 1989, and every three years thereafter. If no changes are forecast for any item, the utility may refer to previous filings for that item.

1. Ten-year plan providing for each year:
   a. The data required in subsection (B)(1)(a) through (p) of this Section for each generating unit and purchased power source, and the data required in subsection (B)(2)(a) through (g) of this Section.
   b. For each generating unit that is new or refurbished during the period:
      i. The data required in subsection (B)(1) of this Section for applicable years, and
      ii. The capital cost, construction time, and construction spending schedule.
   c. The escalation levels assumed for each component of cost for each generating unit and purchased power source.
   d. For the discontinuation, decommissioning, or mothballing of any power source and permanent deratings of any generating facility:
      i. Identification of the power sources or units involved,
      ii. The costs and spending schedule of such discontinuation, decommissioning, mothballing, or derating, and
      iii. The reasons for discontinuation, decommissioning, mothballing, or derating.
   e. The capital and operating and maintenance costs of new or refurbished transmission and distribution facilities, and a description of the need for and purpose of such facilities.
2. Documentation of the data, assumptions, and methods or models used to forecast production costs and power production in subsection (D)(1) of this Section, including the method by which the forecast was calibrated or benchmarked.
3. Description of each potential power source which was rejected, the capital and operating and maintenance costs of each rejected source, and the reasons for rejecting each source.
4. Ten-year forecast of cogeneration and other self generation by customers of the utility in terms of annual peak production (megawatts) and annual energy production (megawatt hours).
5. Disaggregation of the forecast of subsection (D)(4) of this Section into a component in which no additional efforts are made to encourage such generation, and a component consisting of the change in supply due to additional forecasted cogeneration and self generation measures.
6. Ten-year forecast of capital and operating and maintenance costs by year of all cogeneration and other self generation included in subsection (D)(5) of this Section.
7. Documentation of the analysis of cogeneration and other self generation in subsection (D)(4) through (6) of this Section.

E. Analyses of uncertainty. Each utility shall provide to the Commission the following information by December 31, 1989, and every three years thereafter:

1. Analyses using appropriate methods such as sensitivity analyses and probabilistic analyses, to assess errors and uncertainty in:
   a. Demand forecasts,
   b. The costs of demand management measures and power supply,
   c. The availability of sources of power,
   d. Changes in fuel prices, and
   e. Other factors which the utility wishes to consider.
2. Identification of those options which enable the utility to best respond to significant changes in conditions whose future characteristics are uncertain, including:

a. Continual monitoring of critical variables and making commensurate changes in plans if those variables deviate significantly from the forecast,
b. Building several smaller units instead of one large unit,
c. Sharing capacity with other utilities, and
d. Conducting well monitored pilot programs.

F. Integrated resource plan. Each utility shall provide the commission with an integrated resource plan by December 31, 1989, and every three years thereafter containing:
1. The ten year plan or flexible set of plans which, on the basis of the analyses required in this Article, including the uncertainty analysis, will tend to minimize the present value of the total cost of meeting the demand for electric energy services.
2. Complete description and documentation of the least cost plan, including supply and demand side conditions, costs, and discount rates utilized.
3. An action plan indicating the supply and demand-related actions to be undertaken by the utility over the next three years in furtherance of the ten-year plan.

Historical Note
Adopted effective February 3, 1989 (Supp. 89-1).

R14-2-704. Commission review of utility plans

A. Within 120 days of the submission of demand forecasts, supply plans, uncertainty analyses, and integrated resource plans by the utilities, the Commission shall schedule a hearing or hearings to review utility filings and to determine the degree of consistency between these filings and analyses conducted by the staff and information provided by other parties.

B. The Commission may request additional analyses to be conducted by the utilities to improve specified components of the utilities' analyses.

C. In making its consistency determination, the Commission shall consider the following factors:
1. The total cost of electric energy services.
2. The degree to which the factors which affect demand, including demand management, have been taken into account.
3. The degree to which non-utility supply alternatives, such as cogeneration and self generation, have been taken into account.
4. Uncertainty in demand and supply analyses, forecasts, and plans, and the flexibility of plans enabling response to unforeseen changes in supply and demand factors.
5. The reliability of power supplies.

D. The commission may subsequently consider its consistency determination in its review of financing applications, in general rate cases, and in other matters in which the supply of or demand for energy services is a significant factor.

Historical Note
Adopted effective February 3, 1989 (Supp. 89-1).

ARTICLE 8. PUBLIC UTILITY HOLDING COMPANIES AND AFFILIATED INTERESTS

R14-2-801. Definitions

In this Article, unless the context otherwise requires:
1. "Affiliate", with respect to the public utility, shall mean any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, the public utility. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any entity, shall mean the power to direct the management policies of such entity, whether through ownership of voting securities, or by contract, or otherwise.
2. "Commission." The Arizona Corporation Commission.
3. "Entity." A corporation, partnership, limited partnership, joint venture, trust, estate, or natural person.
4. "Holding Company" or "Public Utility Holding Company." Any affiliate that controls a public utility.
5. "Reorganize" or "Reorganization." The acquisition or divestiture of a financial interest in an affiliate or a utility, or reconfiguration of an existing affiliate or utility's position in the corporate structure or the merger or consolidation of an affiliate or a utility.
6. "Subsidiary." Any affiliate controlled by a utility.
7. "System of Accounts. The accounting system or systems prescribed for utilities by the Commission.
8. "Utility" or "Public Utility. Any Class A investor-owned public service corporation subject to the jurisdiction of the Arizona Corporation Commission.

Historical Note
Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-802. Applicability

A. These rules are applicable to all Class A investor-owned utilities under the jurisdiction of the Commission and are applicable to all transactions entered into after the effective date of these rules.

B. Information furnished to the Commission in compliance with these rules will not be open to public inspection, or made public, except on order of the Commission, or by the Commission, or a Commissioner in the course of a hearing or proceeding.

Historical Note
Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-803. Organization of Public Utility Holding Companies

A. Any utility or affiliate intending to organize a public utility holding company or reorganize an existing public utility holding company will notify the Commission's Utilities Division in writing at least 120 days prior thereto. The notice of intent will include the following information:
1. The names and business addresses of the proposed officers and directors of the holding company;
2. The business purposes for establishing or reorganizing the holding company;
3. The proposed method of financing the holding company and the resultant capital structure;
4. The resultant effect on the capital structure of the public utility;
5. An organization chart of the holding company that identifies all affiliates and their relationships within the holding company;
6. The proposed method for allocating federal and state income taxes to the subsidiaries of the holding company;
7. The anticipated changes in the utility's cost of service and the cost of capital attributable to the reorganization;
8. A description of diversification plans of affiliates of the holding company; and
9. Copies of all relevant documents and filings with the United States Securities and Exchange Commission and other federal or state agencies.
10. The contemplated annual and cumulative investment in each affiliate for the next five years, in dollars and as a percentage of projected net utility plant, and an explanation of the reasons supporting the level of investment and the reasons this level will not increase the risks of investment in the public utility.

11. An explanation of the manner in which the utility can assure that adequate capital will be available for the construction of necessary new utility plant and for improvements in existing utility plant at no greater cost than if the utility or its affiliate did not organize or reorganize a public utility holding company.

B. The Commission staff will, within 30 days after receipt of the notice of intent, notify the Applicant of any questions which it has concerning the notice or supporting information. The Commission will, within 60 days from the receipt of the notice of intent, determine whether to hold a hearing on the matter or approve the organization or reorganization without a hearing.

C. At the conclusion of any hearing on the organization or reorganization of a utility holding company, the Commission may reject the proposal if it determines that it would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

Historical Note
Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-804. Commission Review of Transactions Between Public Utilities and Affiliates

A. A utility will not transact business with an affiliate unless the affiliate agrees to provide the Commission access to the books and records of the affiliate to the degree required to fully audit, examine or otherwise investigate transactions between the public utility and the affiliate. In connection therewith, the Commission may require production of books, records, accounts, memoranda and other documents related to these transactions.

B. A utility will not consummate the following transactions without prior approval by the Commission:

1. Obtain a financial interest in any affiliate not regulated by the Commission, or guarantee, or assume the liabilities of such affiliate;
2. Lend to any affiliate not regulated by the Commission, with the exception of short-term loans for a period less than 12 months in an amount less than $100,000; or
3. Use utility funds to form a subsidiary or divest itself of any established subsidiary.

C. The Commission will review the transactions set forth in subsection (B) above to determine if the transactions would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

D. Every transaction in violation of subsection (A) or (B) above is void, and the transaction shall not be made on the books of any public service corporation.

E. The system of accounts used by the public utility will include the necessary accounting records needed to record and compile transactions with each affiliate.

Historical Note
Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-805. Annual Filing Requirements of Diversification Activities and Plans

A. On or before April 15th of each calendar year, all public utilities meeting the requirements of R14-2-802 and public utility holding companies will provide the Commission with a description of diversification plans for the current calendar year that have been approved by the Boards of Directors. As part of these filings, each public utility meeting the requirements of R14-2-802 will provide the Commission the following information:

1. The name, home office location and description of the public utility's affiliates with whom transactions occur, their relationship to each other and the public utility, and the general nature of their business;
2. A brief description of the business activities conducted by the utility's affiliates with whom transactions occurred during the prior year, including any new activities not previously reported;
3. A description of plans for the utility's subsidiaries to modify or change business activities, enter into new business ventures or to acquire, merge or otherwise establish a new business entity;
4. Copies of the most recent financial statements for each of the utility's subsidiaries;
5. An assessment of the effect of current and planned affiliated activities on the public utility's capital structure and the public utility's ability to attract capital at fair and reasonable rates;
6. The bases upon which the public utility holding company allocates plant, revenue and expenses to affiliates and the amounts involved; an explanation of the derivation of the factors; the reasons supporting that methodology and the reasons supporting the allocation;
7. An explanation of the manner in which the utility's capital structure, cost of capital and ability to raise capital at reasonable rates have been affected by the organization or reorganization of the public utility holding company;
8. The dollar amount transferred between the utility and each affiliate during the annual period, and the purpose of each transfer;
9. Contracts or agreements to receive, or provide management, engineering, accounting, legal, financial or other similar services between a public utility and an affiliate;
10. Contracts or agreements to purchase or sell goods or real property between a public utility and an affiliate; and
11. Contracts or agreements to lease goods or real property between a public utility and an affiliate.

B. After reviewing the diversification plans, the Commission may, within 90 days after plans have been provided, request additional information, or order a hearing, or both, should it conclude after its review that the business activities would impair the financial status of the public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the ability of the public utility to provide safe, reasonable and adequate service.

Historical Note
Adopted effective July 30, 1992 (Supp. 92-3).

R14-2-806. Waiver from the Provisions of this Article

A. The Commission may waive compliance with any of the provisions of this Article upon a finding that such waiver is in the public interest.

B. 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 noncompliance with all or part of the provisions of this Article.

C. If the Commission fails to approve, disapprove, or suspend for further consideration an application for waiver within 30 days following filing of a verified application for waiver, the waiver shall become effective on the 31st day following filing of the application.

Historical Note
Adopted effective July 30, 1992 (Supp. 92-3).

ARTICLE 9. CUSTOMER-OWNED PAY TELEPHONES

R14-2-901. Definitions

In this Article, unless the context otherwise requires:

1. "Affiliate" means any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, a customer of record. For purposes of this paragraph, the term "control, (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any entity, means the power to direct the management policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.
2. "Customer of record" means a premises owner or vendor, who has either applied to, or who has obtained from, an LEC an access line to be a COPT provider.
3. "Customer-owned pay telephone (COPT) provider" means an entity authorized by the Commission to provide public pay telephone service to end-users and which is not a certificated LEC on the effective date of this Article. For purposes of compliance with Article 5 of this Chapter, "COPT provider" does not mean a "utility" as defined in R14-2-501(24).
4. "`800' service" means calls to telephone numbers which normally can be reached without charge to the calling party by dialing 1-800 plus seven digits.
5. "Entity" means a corporation, partnership, limited partnership, joint venture, trust, estate, or natural person.
6. "Local exchange company (LEC)" means a company which is certificated to operate the local public switched telecommunications network.
7. "Public access line (PAL)" means any LEC tariff under which COPT providers are authorized to obtain access to the local and interexchange telecommunications network.

Historical Note

Adopted effective September 16, 1992 (Supp. 92-3).

Editor's Note: The following Section was amended under an exemption from the Attorney General approval provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992), as determined by the Corporation Commission. This exemption means that the rules as amended were not approved by the Attorney General.

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

A. Within 30 days of the effective date of this Article, all LEC's shall provide written notification of the requirements of this Article to each of their existing customers of record. Such notification shall be in a form acceptable to the Commission and shall explain that all customers of record are required to file either an application for a certificate of convenience and necessity (CC&N) pursuant to this Section or an application for an adjudication not a public service corporation pursuant to R14-2-904.

B. Any customer of record requesting PAL service subsequent to the effective date of this Article who was not subject to the provisions of subsections (A) and (E) of this Section, or whose PAL service was terminated pursuant to the provisions of this Article, shall provide to the LEC proof of either:

1. A CC&N granted pursuant to this Section; or
2. An adjudication order declaring that it is not a public service corporation pursuant to R14-2-904.

C. All customers of record shall submit to the Commission an original and ten copies of an application for a CC&N. A customer of record who has COPT's placed in more than one location may apply for a single CC&N to cover all locations served.

D. Each customer of record shall submit an application on a form provided by the Commission which includes all of the following information:

1. The name and address of the customer of record, including a contact person for coordinating communications with the Commission and a contact person or telephone number for maintenance and complaint handling. If the customer of record is other than an individual, a listing of the officers, directors, or partners and a copy of the articles of incorporation, partnership agreement, or other organizational document shall be provided.
2. A description of all affiliated relationships between the customer of record and any public service corporation or telecommunications company.
3. The addresses and descriptions of locations to be served, including the name of the serving LEC.
4. A description of the equipment being used to provide service.
5. A list of services provided and the proposed rates.
6. An example of the contract between the customer of record and the premises owner, if different.
7. A description of how information posting and complaint handling requirements will be met.
8. A customer of record planning to serve more than 50 locations shall submit relevant financial data, including current financial statements, the method of financing operations, and projected annual operating expenses. For purposes of this paragraph, the number of service locations shall include all those of the customer of record and affiliates.
9. One of the following also shall be included:
   a. A commitment to provide service under the Generic (Streamlined) COPT Tariff; or
   b. A request for approval of services under a Special (Non- Streamlined) COPT Tariff.

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

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

6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
   a. Administrative completeness review time-frame: 30 calendar days,
   b. Substantive review time-frame: 150 calendar days,
   c. Overall time-frame: 180 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested party to the proceeding, request a suspension of the time-frame rules.

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

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).
Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

R14-2-903. Grant of Certificate of Convenience and Necessity

A. The Commission shall analyze an application for a CC&N to determine if it is complete and correct. If necessary, the Commission may request additional information from the CC&N applicant.

B. The Commission shall hold a hearing to review an application for a CC&N. The type of hearing held shall depend on the tariff requested by the CC&N applicant:
1. The Commission may hold periodic consolidated hearings to review all applications which request the Generic (Streamlined) COPT Tariff described in R14-2-905.
2. The Commission shall hold individual hearings to review applications which request a Special (Non-Streamlined) COPT Tariff as described in R14-2-906.

C. The Commission shall notify in writing the CC&N applicant and the appropriate LEC of the Commission's determination made pursuant to this Section. A CC&N granted under this Section shall be issued in the name of the customer of record.

D. All CC&N's granted under this Section shall include both of the following:
1. An obligation to serve all users in a non-discriminatory manner, and
2. An obligation to comply with all Commission requirements relevant to the provision of intraLATA service.

E. A holder of a CC&N shall notify the Commission in writing prior to discontinuing or abandoning COPT service at any location.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-904. Application for Adjudication not a Public Service Corporation

A. Any entity intending to provide COPT service, or any customer of record, may submit to the Commission an original and ten copies of an application to be adjudicated not a public service corporation.

B. The Commission shall determine whether the adjudication applicant is a public service corporation by examining all of the following factors:
1. What business activities the adjudication applicant conducts or will conduct.
2. Whether the pay telephone service is or will be dedicated to public use.
3. Whether the adjudication applicant accepts or will accept substantially all requests for service.
4. Whether the adjudication applicant is or will be the sole offeror of pay telephone service in the area, or is in competition with other providers.
5. Whether the public safety and convenience requires maintenance of public telephone facilities at the locations designated in the application.

C. The Commission shall notify in writing the adjudication applicant and the appropriate LEC of the Commission's determination made pursuant to subsection (B) of this Section. Such notification shall be made within 180 days of receipt of an application submitted pursuant to subsection (A) of this Section.

D. An adjudication applicant adjudicated a public service corporation under the provisions of this Section shall submit an application for a certificate of convenience and necessity pursuant to R14-2-902 within 30 days of receiving notice of the Commission's determination.

E. An adjudication applicant adjudicated not a public service corporation under this Section shall be exempt from the requirements contained in this Article.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-905. Generic (Streamlined) COPT Tariff

A. All COPT providers holding CC&N's granted under this Article shall comply with the terms of the Generic (Streamlined) COPT Tariff, unless otherwise ordered by the Commission pursuant to R14-2-906.

B. In the Generic (Streamlined) COPT Tariff, the Commission shall specify the rates, terms, and conditions associated with the following standards:
1. The rates and charges to end-users for local calling.
2. The rates and charges to end-users for intrastate toll calling.
3. The application of toll charges, if any, for use of "800" services.
4. The accessibility by end-users of alternative toll carriers.
5. Limitations on service to local calling and access to local operators.
6. Instructions on how to make a call and how to obtain refunds.
7. Duration of local calls before additional charges apply.
8. The provision of emergency service and local directory assistance.
9. Acceptable methods of payment by end-users.
10. Design and technical specifications for instruments.
11. The provision of operator services.
12. Procedures for obtaining approval for provision of services not included in the tariff.
13. The termination of PAL service at any location for violation of tariff provisions.

C. The Commission may approve and revise the Generic (Streamlined) COPT Tariff as necessary.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-906. Special (Non-Streamlined) COPT Tariff

A. Instead of concurring with the Generic (Streamlined) COPT Tariff, a COPT provider may file a proposed Special (Non-

Streamlined) COPT Tariff with an application for a CC&N submitted pursuant to R14-2-902.

B. The Commission shall analyze each proposed Special (Non-Streamlined) COPT Tariff on an individual basis. In reviewing the proposed Special (Non-Streamlined) COPT Tariff, the Commission shall consider the standards listed in R14-2-905(B).

C. While a proposed Special (Non-Streamlined) COPT Tariff is pending before the Commission, the COPT provider shall comply with the provisions of the Generic (Streamlined) COPT Tariff.

D. Following a hearing, the Commission may approve, modify, or reject any proposed Special (Non-Streamlined) COPT Tariff.

E. Changes may be made to a Special (Non-Streamlined) COPT Tariff as a result of a tariff filing made pursuant to A.R.S. § 40- 250(B) or an individual rate proceeding.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-907. Reporting Requirements and Safety Standards

A. All COPT providers shall submit an annual report to the Commission on a form prescribed by the Commission. The annual report shall be filed on or before the 1st day of February for the preceding calendar year. The annual report shall include all of the following information:

1. A description of any material changes in the information provided by the COPT provider in the original CC&N application or in the last annual report.
2. An updated list of all locations served by the COPT provider.
3. The COPT provider's gross operating revenues derived from intrastate operations during the preceding calendar year.

B. A COPT provider having gross operating revenues derived from intrastate operations during the preceding calendar year which exceed $250,000 shall be subject to the annual assessment described in A.R.S. § 40-401.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-908. Violations

A. The Commission may order a LEC to immediately terminate PAL service to any customer of record which:

1. Fails to do one of the following:
   a. Obtain a CC&N to provide service pursuant to R14-2-902 and R14-2-903; or
   b. Receive an adjudication that it is not a public service corporation pursuant to R14-2-904.
2. Violates any applicable pricing or service standard as described in approved tariffs and R14-2-903, R14-2-905, and R14-2-906.

B. A LEC shall not offer PAL service to a customer of record unless one of the following requirements has been met:

1. The customer of record has received a CC&N from the Commission; or
2. The customer of record has been adjudicated not a public service corporation.

C. A LEC in violation of subsection (B) of this Section shall be subject to the penalty provisions contained in A.R.S. §§ 40-421 to 40-433.

D. Any COPT provider found by the Commission to be in violation of subsection (A)(2) of this Section shall be subject to revocation of its CC&N.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

R14-2-909. Variations or Exemptions from the Commission's Rules

Variations or exemptions from the terms and requirements of any of the rules included in this Article shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission's rules. Such application will be subject to the review of the Commission, and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

Historical Note
Adopted effective September 16, 1992 (Supp. 92-3).

ARTICLE 10. ALTERNATIVE OPERATOR SERVICES

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1001. Definitions

In this Article, unless the context otherwise requires:

1. "Access code" means a sequence of numbers that, when dialed, connects a caller to the provider of operator services associated with that sequence of numbers.
2. "Affiliate" means any other entity directly or indirectly controlling or controlled by, or under direct or indirect common control with, the entity making alternative operator services available to the public. For purposes of this definition, the term "control" (including the correlative meanings of the terms "controlled by" and "under common control with"), as used with respect to any entity, means the power to direct the management policies of such entity, whether through the ownership of voting securities, by contract, or otherwise.
3. "Aggregator" or "Traffic Aggregator" means any person or entity that, in the ordinary course of its operations and using a provider of operator services, makes telephones available to the public or to transient users of its premises, for intrastate telephone calls. Each entity that exercises control over telephone equipment, whether through ownership of the equipment, control of access to the equipment, or some other means, will be responsible as an aggregator.
4. "Alternative Operator Services" or "AOS" means provision by an entity, other than a local exchange carrier or a certificated interexchange carrier with authorized operator service tariffs, of any telecommunications service initiated from an aggregator location where automated and/or live assistance is provided to a consumer in order to arrange for billing or completion of an intrastate telephone call. Store and forward payphones are not included within this definition.
5. "AOS Provider" means any public service corporation that provides alternative operator services.
6. "Billing Agency" means any third party authorized by the AOS provider to submit bills to end users and to handle billing disputes.
7. "Blocking" means the process of screening the calls dialed from the presubscribed telephone in order to prevent the completion of calls that would allow the caller to reach a preferred interexchange carrier.
8. "Call splashing" means the transfer of a telephone call from one provider of operator services to another such

provider in such a manner that the subsequent provider is unable or unwilling to determine the originating location of the call and consequently bills the call without properly reflecting the originating and terminating points of the telephone call.

9. "Consumer", "Caller", or "End User" means a person initiating any intrastate telephone call by means of alternative operator services.
10. "Entity" means a corporation, partnership, limited partnership, joint venture, trust, estate, or natural person.
11. "Interexchange carriers" or "IXCs" means any long-distance telephone carriers authorized by the Commission to provide long distance, interLATA telecommunications service, but not local exchange services, within the state borders.
12. "IntraLATA long-distance service" means all long-distance service originating and terminating in the same LATA, as defined by the F.C.C.
13. "LATA" means one of the geographic local access and transport areas established as a result of the AT&T divestiture.
14. "Local exchange carriers" or "LECs" means telephone companies currently certified to provide local telephone service in designated areas of the state.
15. "Operator Service Charges" or "charges" means all tariffed charges, other than rate usage charges, and surcharges authorized by the Commission and charged to the end user for live or automated operator-assisted calls.
16. "Rate" means any usage charges, as approved by this Commission.
17. "Surcharge" or "Location-specific Surcharge" means a charge imposed by an aggregator upon an end user and paid in addition to the usage rates and operator service charges of the alternative operator services provider.
18. "Waiver" refers to the Commission's ability to dispense with a requirement under these rules.
19. "Zero-minus call" means a call that is made by dialing a single zero.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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

A. Upon the effective date of this Article, all LECs shall provide written notification of the requirements of this Article to all AOS providers for which they provide billing service. Such notification shall be in a form acceptable to the Commission and shall explain that all AOS providers are required to file an application for a certificate of convenience and necessity (CC&N) pursuant to this Section.

B. Any AOS provider requesting billing services subsequent to the effective date of this Article shall provide to the LEC proof that it has made application for or has received a CC&N granted pursuant to this Section.

C. All AOS providers shall submit to the Commission an original and the number of copies required by the Commission of an application for a CC&N.

D. Each AOS applicant shall submit an application which includes all of the following information:

1. The name and address of the AOS provider, including a contact person responsible for maintenance and complaint handling. If the AOS provider is other than an individual, a listing of the officers, directors, or partners and a copy of the articles of incorporation, partnership agreement, or other organizational document shall be provided.
2. An organizational chart which shows all affiliated relationships of the AOS provider.
3. The addresses and descriptions of locations to be served, including the name of the serving LEC. Applicant may apply for a partial waiver of this rule pursuant to R14-2-1014 requesting that all or part of this information be held confidential by the Commission.
4. A description of the equipment being used to provide service, including the Federal Communications Commission registration number.
5. A list of services provided and the proposed rates, operator service charges, and surcharges.
6. A description of how information posting and complaint-handling requirements will be met.
7. Relevant financial data, including current financial statements, the method of financing operations, and projected annual operating expense.
8. Any other requirements that the Commission may require.

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

1. This rule prescribes time-frames for the processing of any Application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 365 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 365 calendar days after an application is deemed administratively complete, the Commission shall approve or reject the application.
6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
   a. Administrative completeness review time-frame: 365 calendar days,
   b. Substantive review time-frame: 365 calendar days,
   c. Overall time-frame: 730 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.

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

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1003. Grant of Certificate of Convenience and Necessity

A. The Commission shall analyze an application for a certificate of convenience and necessity ("CC&N") to determine if it is complete and correct. If necessary, the Commission may request additional information from the CC&N applicant.

B. The Commission shall hold a hearing to determine whether it is in the public interest to grant a CC&N to the applicant.

C. The Commission shall notify in writing the CC&N applicant and the appropriate LECs of the Commission's determination made pursuant to this Section. A CC&N granted under this Section shall be issued in the name of the AOS provider.

D. All CC&Ns granted under this Section shall include both of the following:
1. An obligation to serve all end-users and subscribers in a nondiscriminatory manner, and
2. An obligation to comply with all Commission requirements relevant to the provision of telecommunications service.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1004. Rates, Operator Service Charges, and Surcharges

The rates, operator service charges, and surcharges assessed by AOS providers to their end-users of AOS service shall be limited to those specified in Commission-approved tariffs. All rates, operator service charges, and surcharges shall be stated in the tariffs. Location-specific surcharges imposed by the aggregator may only be charged once, either on the AOS bill or at the aggregator location, but under no circumstances shall a location-specific surcharge be imposed both on the bill and at the aggregator location.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1005. End-user Notification and Choice Requirements

A. Each AOS provider shall:
1. Identify itself with a live or automated message at the outpulse of the terminating number which informs the end-user that a named AOS provider has been reached and that such provider's rates, operator service charges, and surcharges apply to the call. This message shall be provided before the end-user incurs any charge for the call, including a usage rate, operator service charge, and surcharge.
2. Disclose immediately to the consumer, upon request and at no charge to the consumer, any of the following information:
   a. A quotation of tariffed rates, operator service charges, and location-specific surcharges;
   b. The methods by which such rates, operator service charges, and surcharges will be collected;
   c. The methods by which complaints concerning such rates, operator service charges, and surcharges or collection practices will be resolved; and
   d. That the end-user's preferred carrier can be reached by an access code or toll-free customer service number.

B. The contents and methods of posting shall be described in each AOS provider's tariff. At a minimum, each aggregator shall post all of the following information, through the use of tent cards or stickers on or near the telephone instrument, in plain view of the end-user:
1. The name, address, and toll-free telephone number of the AOS provider;
2. A written disclosure that the rates, operator service charges, and location-specific surcharges of the AOS provider apply for all operator-assisted calls;
3. A statement that interLATA calls made with calling cards, including IXC cards, may be carried by the AOS provider;
4. Dialing instructions;
5. A toll-free number for billing inquiries;
6. A description of complaint procedures; and
7. That end-users have a right to obtain access to the interexchange carrier of their choice.

C. Each AOS provider shall ensure, by contract or tariff, that each aggregator using the AOS provider's services is in compliance with the requirements of subsection (B) of this Section.

D. Neither the AOS provider nor the subscriber shall require or participate in blocking any end-user's access to a preferred carrier. AOS providers and their affiliates shall be required to withhold on a location-specific basis, the payment of any compensation, including commissions, to an aggregator that is blocking end-users' access to preferred carriers.

E. Waivers from the blocking ban will be considered only if accompanied by a detailed cost/benefit analysis and will be granted by the Commission only if the evidence compels a finding that without blocking the risk of fraud and revenue erosion to the AOS provider would be significant.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Ari-

zona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1006. Public Safety Requirements

A. AOS providers shall route all zero-minus calls immediately to the originating LEC.

B. The Commission may, upon application of the AOS provider, issue a waiver to subsection (A) of this Section if the AOS provider has clearly and convincingly demonstrated that it has the capability to process such calls with equal quickness and accuracy as provided by the LEC

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1007. Billing and Collection

A. Each AOS provider shall bill monthly for services rendered.

B. Bills issued for the intrastate interLATA AOS service provided by AOS providers shall include the minimum information required by R14-2-508(B) and identify the AOS provider to the extent that the LEC has the capability to do so. In the absence of that capability, the identification of the billing agent or clearinghouse and its toll-free customer service number shall be required.

C. The LEC will not process billing for any intraLATA calls carried by the AOS provider, whether intentional or incidental, where the required compensation has not been paid to the LEC.

D. Each AOS applicant shall comply with all of the following billing procedures:

1. The billing date shall be printed on the bill and shall be the date the bill was issued;
2. The AOS provider shall provide a full refund of any charge levied for an uncompleted call; and
3. AOS providers or their billing agents shall be prohibited from billing for calls which occur more than 60 days prior to the billing date.
4. AOS providers or their agents are prohibited from billing for any intraLATA calls carried by the AOS provider, whether intentional or incidental, where the required compensation has not been paid to the LEC.

E. The disconnection of local service for the nonpayment of intrastate interLATA AOS usage charges, operator service charges, and surcharges by end-users shall be permitted only in accordance with the detailed procedures set forth in R14-2-509.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1008. Call Splashing Requirements

A. AOS providers' tariffs shall require the transfer of calls to other carriers at no charge so that rating and billing properly reflect the originating and terminating points of the telephone call.

B. When transfers, as described in subsection (A) of this Section are not possible, the tariffs shall require the provider to inform the end-user that the call cannot be completed and that the preferred carrier may be reached by an access code or toll-free customer service number.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1009. Complaint Processing

A. AOS applicants for certificates of convenience and necessity shall submit to the Commission a tariff or schedule containing a detailed description of complaint processing procedures.

B. The name, address, and telephone number of a representative for complaint matters shall be submitted with these procedures.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1010. Quality of Service

AOS providers applying for certificates of convenience and necessity shall develop quality of service standards for operator response time and call processing time and submit those standards to the Commission for review and approval.

Historical Note

Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1011. Reports

A. AOS providers holding certificates of convenience and necessities shall submit Utility Division annual reports to the Commission pursuant to A.R.S. § 40-204.

B. AOS providers holding certificates of convenience and necessity shall submit annual reports to the Commission comparing the company's actual monthly performance with the standards in R14-2-1010.

C. AOS providers that have been certificated shall annually submit to the Commission a list of subscribers and locations served.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1012. Violations

A. The Commission may order an LEC to immediately terminate service to AOS providers which:
1. Fail to make application for or obtain a CC&N to provide service pursuant to R14-2-1002, or
2. Violate any applicable quality of service standards as described in this Article.

B. An LEC shall not offer service to an AOS provider unless the AOS provider has made application for or received a CC&N from the Commission.

C. An LEC in violation of subsection (B) of this Section shall be subject to the penalty provisions contained in A.R.S. §§ 40-421 through 40-433.

D. Any AOS provider found by the Commission to be in violation of paragraph (A)(2) of this Section shall have its CC&N subject to revocation.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1013. IntraLATA Long-distance Service is Prohibited

AOS providers may not carry intraLATA toll calls where the required compensation has not been paid to the LEC. All intraLATA calls where arrangements have not been made for compensation to the LEC by the IXC must be switched to the authorized LEC of the aggregator.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1014. Variations or Exemptions from the Commission's Rules

Variations or exemptions from the terms and requirements of any of the rules included in this Article shall be considered upon the verified application of an affected party to the Commission setting forth the circumstances whereby the public interest requires such variation or exemption from the Commission's rules. Such application will be subject to the review of the Commission and any variation or exemption granted shall require an order of the Commission. In case of conflict between these rules and an approved tariff or order of the Commission, the provisions of the tariff or order shall apply.

Historical Note
Adopted effective November 2, 1993, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 93-4).

ARTICLE 11. COMPETITIVE TELECOMMUNICATIONS SERVICES

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1101. Application of Rules

These rules shall govern the provision of competitive, intrastate telecommunications services to the public by telecommunications companies subject to the jurisdiction of the Arizona Corporation Commission. Unless otherwise ordered by the Commission, these rules shall not govern the provision of service by independently or local exchange carrier-owned pay telephones (COPTs) and alternative operator service (AOS) providers, which shall instead be governed by Articles 9 and Article 10 of this Chapter, respectively. The provision of local exchange service also shall be governed by Article 5 of this Chapter, to the extent that Article is not inconsistent with these rules.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1102 Application of Rule

Article, unless the context otherwise requires, the following definitions shall apply:
1. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
2. "Bona Fide Request." A written request submitted by a telecommunications company to a local exchange carrier for intraLATA equal access service or for interconnection arrangements.
3. "Central Office." A facility within a telecommunications system where calls are switched and which contains all the necessary equipment, operating arrangements, and interface points for terminating and interconnecting facilities such as subscribers' line and interoffice trunks.
4. "Competitive Telecommunications Service." Any telecommunications service where customers of the service within the relevant market have or are likely to have reasonably available alternatives.
5. "Docket Control Center." The Commission section responsible for the acceptance and processing of all applications and other filings, and for official record maintenance.

6. "Equal Access." An arrangement where a local exchange company provides all telecommunications companies operating in an equal access central office with dialing arrangements and other service characteristics that are equivalent in type and quality to what the local exchange carrier utilizes in the provision of its service.
7. "Local Exchange Carrier." A telecommunications company that provides local exchange service as one of the telecommunications services it offers to the public.
8. "Local Exchange Service." The telecommunications service that provides a local dial tone, access line, and local usage within an exchange or local calling area.
9. "Monopoly Service." A monopoly service is any telecommunications service provided by a telecommunications company that is not subject to competition in the relevant market.
10. "Primary Interexchange Company" or "PIC." The telecommunications company with whom a customer may presubscribe to provide 1+/0+ toll service, without the use of access codes, following equal access implementation.
11. "Rate." Within the context of this Article, this term refers to the maximum tariffed rate approved by the Commission, from which the competitive telecommunications service provided may be discounted down to the total service long-run incremental cost of providing the service.
12. "Relevant Market." Where buyers and sellers of a specific service or product, or a group of services or products, come together to engage in transactions. For telecommunications services, the relevant market may be identified on a service-by-service basis, a group basis, and/or by geographic location.
13. "Staff." The staff of the Arizona Corporation Commission or its designated representative or representatives.
14. "Tariffs." The documents filed with the Commission which list the services and products offered by a telecommunications company and which set forth the terms and conditions and a schedule of the rates and charges for those services and products.
15. "Telecommunications Company." A public service corporation, as defined in the Arizona Constitution, Article 15, § 2, that provides telecommunications services within the state of Arizona and over which the Commission has jurisdiction.
16. "Telecommunications Service." Any transmission of interactive switched and non-switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwave, or any other electromagnetic means (including access services), which originate and terminate in this state and are offered to or for the public, or some portion thereof, for compensation.
17. "Total Service Long Run Incremental Cost." The total additional cost incurred by a telecommunications company to produce the entire quantity of a service, given that the telecommunications company already provides all of its other services. Total Service Long-run Incremental Cost is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.
18. "2-PIC Toll Equal Access." The equal access option that affords customers the opportunity to select one telecommunications company for all interLATA 1+/0+ toll calls and, at the customer's option, to select another telecommunications company for all intraLATA 1+/0+ toll calls.
19. "Unbundled." Disaggregation of the local exchange carrier network services.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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

A. All telecommunications companies providing intrastate telecommunications services shall obtain a Certificate of Convenience and Necessity from the Commission, either under this Article, if competitive services are to be provided or, under Article 5. If the Commission determines that the services identified in an Application filed under this Article are not competitive, the Commission may nevertheless grant a Certificate and authorize provision of the services on a noncompetitive basis pursuant to Article 5.

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

1. This rule prescribes time-frames for the processing of any application for a Certificate of Convenience and Necessity issued by the Arizona Corporation Commission pursuant to this Article. These time-frames shall apply to applications filed on or after the effective date of this rule.
2. Within 10 calendar days after receipt of an application for a new Certificate of Convenience and Necessity, or to amend or change the status of any existing Certificate of Convenience and Necessity, staff shall notify the applicant, in writing, that the application is either administratively complete or deficient. If the application is deficient, the notice shall specify all deficiencies.
3. Staff may terminate an application if the applicant does not remedy all deficiencies within 60 calendar days of the notice of deficiency.
4. After receipt of a corrected application, staff shall notify the applicant within 30 calendar days if the corrected application is either administratively complete or deficient. The time-frame for administrative completeness review shall be suspended from the time the notice of deficiency is issued until staff determines that the application is complete.
5. Within 270 days after an application is deemed administratively complete, the Commission shall approve or reject the application, unless a formal hearing is held.
6. For purposes of A.R.S. § 41-1072 et seq., the Commission has established the following time-frames:
   a. Administrative completeness review time-frame: 10 calendar days,
   b. Substantive review time-frame: 270 calendar days,
   c. Overall time-frame: 280 calendar days.
7. If an applicant requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request during the duration of the extension or continuance.
8. During the substantive review time-frame, the Commission may, upon its own motion or that of any interested

party to the proceeding, request a suspension of the time-frame rules.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1104. Expanded Certificates of Convenience and Necessity for Telecommunications Companies with Existing Certificates; Initial Tariffs

A. Effective July 1, 1995, every telecommunications company, except a local exchange carrier, that has received a Certificate of Convenience and Necessity under Article 5, and that provides or intends to provide competitive, intraLATA telecommunications service shall file with the Docket Control Center ten copies of an Application to expand its existing Certificate of Convenience and Necessity to provide competitive, intraLATA telecommunications service. In support of the request for an expanded Certificate of Convenience and Necessity, the Application shall, at a minimum, include the following information:
1. A description of the telecommunications company and of the telecommunications services it offers or intends to offer.
2. The proper name and correct intrastate address of the telecommunications company and:
   a. The full name of its owner if a sole proprietorship,
   b. The full name of each partner if a partnership,
   c. A full list of the officers and directors if a corporation, or
   d. A full list of the members if a limited liability company.
3. A tariff for each service to be provided that states the maximum rate as well as the initial price to be charged, and that also states other terms and conditions that will apply to provision of the service by the telecommunications company. The telecommunications company shall provide economic justification or cost support data if required by the Commission or by Staff.
4. A detailed description of the geographic market to be served and maps depicting the area.
5. Appropriate city, county and/or state agency approvals, where appropriate.
6. Such other information as the Commission or the Staff may request.

B. As part of the Application for an expanded Certificate of Convenience and Necessity, the telecommunications company shall also petition the Commission for a determination that the intraLATA service being provided or to be provided is competitive, pursuant to the requirements of R14-2-1108.

C. The Commission shall review the initial tariffs submitted by the telecommunications company and shall determine whether the rates, terms, and conditions for the proposed services are reasonable.

D. If it appears, based upon Staff review or upon comments filed with Commission Docket Control Center, that a rate, term, or condition of service stated in a tariff may be unjust or unreasonable, or that a service to be offered by the applicant may not be competitive, the Commission or Staff may require further information and/or changes to the application or to the tariff.

E. When the Application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. The telecommunications company shall, no later than 20 days after the Application is filed, publish legal notice of the Application in all counties where services will be provided. The notice shall describe with particularity the contents of the Application on file with the Commission. Interested persons shall have 20 days from the publication of legal notice to file objections to the Application and to submit a motion to intervene in the proceeding.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1105. Certificates of Convenience and Necessity for Telecommunications Companies Offering Competitive Services; Initial Tariffs

A. Effective July 1, 1995, every other telecommunications company, except a local exchange carrier, that has not previously received a Certificate of Convenience and Necessity, and that provides or intends to provide intrastate competitive telecommunications services shall file with the Docket Control Center ten copies of an Application for a Certificate of Convenience and Necessity to provide competitive telecommunications services. In support of the request for a Certificate of Convenience and Necessity, the Application shall, at a minimum, include all the information required in R14-2-1104(A) and shall also include the following information:
1. A description of the telecommunications company's technical capability to provide the proposed services and a description of its facilities.
2. Information describing the financial resources of the telecommunications company, including:
   a. A current intrastate balance sheet,
   b. A current income statement (if applicable),
   c. A pro forma income statement, and
   d. Comparable financial information evidencing sufficient financial resources.
3. A copy of the Partnership Agreement, Articles of Incorporation, Articles of Organization, Joint Venture Agreement, or any other contract, agreement, or document that evidences the formation of the telecommunications company.

B. An Application filed under subsection (A) of this Section shall also petition the Commission for a determination that the service being provided or to be provided is competitive under the requirements of R14-2-1108.

C. An Application filed under subsection (A) of this Section shall be subject to the provisions of subsections R14-2-1104(D) and (E).

D. In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1106. Grant of Certificate of Convenience and Necessity

A. The Commission, after notice and hearing, may deny certification to any telecommunications company which:
1. Does not provide the information required by this Article;
2. Is not offering competitive services, as defined in this Article;
3. Does not possess adequate financial resources to provide the proposed services;
4. Does not possess adequate technical competency to provide the proposed services; or
5. Fails to provide a performance bond, if required.

B. Every telecommunications company obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:
1. The telecommunications company shall comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service.
2. The telecommunications company shall maintain its accounts and records as required by the Commission.
3. The telecommunications company shall file with the Commission 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 telecommunications company shall maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require.
5. The telecommunications company shall cooperate with Commission investigations of customer complaints.
6. The telecommunications company shall participate in and contribute to a universal service fund, as required by the Commission.
7. Failure by a telecommunications company to comply with any of the above conditions may result in rescission of its Certificate of Convenience and Necessity.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1107. Application to Discontinue or Abandon Local Exchange Service Area

A. Any telecommunications company providing competitive local exchange service that intends to discontinue service or to abandon all or a portion of its service area shall file an application for authorization with the Commission setting forth the following:
1. Any reasons for the proposed discontinuance of service or abandonment of service area;
2. Verification that all affected customers have been notified of the proposed discontinuance or abandonment, and that all affected customers will have access to an alternative local exchange service provider;
3. Where applicable, a plan for the refund of deposits collected pursuant to subsection R14-2-503(B);
4. A list of all alternative utilities providing the same or similar service within the affected geographic area.

B. When the Application is submitted to the Docket Control Center, it will not be filed until it is found to be in proper form. No later than 20 days after the Application is filed, the telecommunications company shall publish legal notice of the Application in all counties affected by the Application. The legal notice shall describe with particularity the substance of the Application. Interested persons shall have 30 days from the publication of legal notice to file objections to the Application, to request a hearing, and to submit a motion to intervene in the proceeding.

C. Once proper notice is effected and if no objection is filed, the Commission may grant the application without a hearing.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1108. Determination of a Competitive Telecommunications Service

A. A telecommunications company may petition the Commission to classify as competitive any service or group of services provided by the company. The telecommunications company shall file with the Docket Control Center ten copies of its petition. The telecommunications company also shall provide notice of its application to each of its customers, if any, and to each regulated telecommunications company that serves the same geographic area or provides the same service or group of services, or a service or group of services similar to the service or group of services for which the competitive classification is requested.

B. The petition for competitive classification shall set forth the conditions within the relevant market that demonstrate that the telecommunications service is competitive, providing, at a minimum, the following information:
1. A description of the general economic conditions that exist which make the relevant market for the service one that is competitive;
2. The number of alternative providers of the service;
3. The estimated market share held by each alternative provider of the service;
4. The names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801;
5. The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions; and
6. Other indicators of market power, which may include growth and shifts in market share, ease of entry and exit, and any affiliation between and among alternative providers of the services.

C. Alternatively, where the Commission has already classified a specific service within the relevant market as competitive, the petition shall provide the date and decision number of the Commission order.

D. In any competitive classification proceeding, the telecommunications company filing the petition, and any telecommunications company supporting the petition, shall have the burden of demonstrating that the service at issue is competitive. Classification of the petitioners' service as competitive does not constitute classification of any service provided by another telecommunications company as competitive, unless expressly ordered by the Commission.

E. The Commission may initiate classification proceedings on its own motion and may require all regulated telecommunications companies potentially affected by the classification proceeding to participate in the proceeding. In an Order classifying a service as competitive, the Commission will specify whether the classification applies to the service provided by a specific company or companies or to that service provided by all telecommunications companies.

F. If the Commission finds that a telecommunications company's service is competitive, the telecommunications company providing the service may obtain a rate change for the service by applying for streamlined rate treatment pursuant to R14-2-1110.

G. Any finding by the Commission, pursuant to the provisions of this Section, that a telecommunications service is competitive so as to qualify for streamlined rate treatment shall not constitute a finding that the service is deregulated.

H. Any telecommunications service classified by the Commission as competitive may subsequently be reclassified as noncompetitive if the Commission determines that reclassification would protect the public interest. Notice and hearing would be required prior to any reclassification. The burden of proof would be on the party seeking reclassification.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1109. Pricing of Competitive Telecommunications Services

A. Pricing of Competitive Services. A telecommunications company governed by this Article may price a competitive telecommunications service at any level at or below the maximum rate stated in the company's tariff on file with the Commission, provided that the price for the service is not less than the company's total service long-run incremental cost of providing the service.

B. Changing a Price. A telecommunications company governed by this Article may effect a price change for a competitive service so long as two conditions are met:
1. The changed price comports with the limitations stated in subsection (A); and
2. The Commission is provided with concurrent, written notice of the price change.

C. No Cross-subsidization. A competitive telecommunications service shall not be subsidized by any rate or charge for any noncompetitive telecommunications services. To insure that no cross-subsidization exists, each competitive telecommunications service must provide revenues that equal or exceed the company's total service long-run incremental cost of providing the service.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1110. Competitive Telecommunications Services -- Procedures for Rate Change

A. Telecommunications companies governed by this Article may apply to the Commission for an increase in any rate for a competitive service using the procedures set forth below. All applications and supporting information shall be submitted with ten copies and filed with Docket Control Center.

B. In order to increase the maximum tariffed rate for a competitive telecommunications service, the applicant shall submit an application to the Commission containing the following information:
1. A statement setting forth the reasons for which a rate increase is required;
2. A schedule of current rates and proposed rates and the additional revenues to be derived from the proposed rates;
3. An affidavit verifying that appropriate notice of the proposed rate increase has been provided to customers of the service;
4. The Commission or staff may request any additional information in support of the application.

C. The Commission may, at its discretion, act on the requested rate increase with or without an evidentiary hearing; in an expeditious manner.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1111. Requirement for IntraLATA Equal Access

A. Each local exchange carrier shall provide 2-PIC toll equal access where technically and economically feasible, and in accordance with any procedures the Commission may order.

B. The sequence for implementation of intraLATA equal access shall occur in the following manner:
1. In response to a bona fide request for intraLATA equal access, a local exchange carrier shall complete implementation of intraLATA equal access within nine months of receiving the request. A person making such a bona fide request shall also provide a copy to the Arizona Corporation Commission.
2. The local exchange carrier may implement intraLATA equal access in any central office on its own initiative but, in any event, shall make intraLATA equal access available in all its central offices no later than July 1, 1996, unless otherwise ordered by the Commission.

C. A local exchange carrier may petition the Commission for a waiver of the requirement in subsection (B)(1) on the grounds that compliance is not technically or economically feasible. A local exchange carrier may also petition the Commission for an extension of the requirement in subsection (B)(2) on the grounds that intraLATA equal access cannot reasonably or economically be provided within any specific exchanges within the required time frame. The Commission may grant either of these waivers with or without a hearing. The local exchange carrier filing the waiver petition shall bear the burden of proof.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1112. Interconnection Requirements
All local exchange carriers must provide appropriate interconnection arrangements with other telecommunications companies at reasonable prices and under reasonable terms and conditions that do not discriminate against or in favor of any provider, including the local exchange carrier. Appropriate interconnection arrangements shall provide access on an unbundled, nondiscriminatory basis to physical, administrative, and data-base network components. Local exchange carriers shall provide appropriate interconnection arrangements within six months of receiving a bona fide request for interconnection. The interconnection arrangements must be in the form of a tariff and shall be filed with the Commission for its approval before becoming effective.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1113. Establishment of Universal Service Fund
The Commission shall establish an intrastate universal service fund which shall assure the continued availability of basic telephone service at reasonable rates. The universal service fund shall be structured and administered as required by the Commission.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1114. Service Quality Requirements for the Provision of Competitive Services

A. General Requirement. Telecommunications companies governed by this Article shall provide quality service in accordance with this rule and with any other service quality requirements established by the Commission.

B. Telecommunications Company Responsibility. Each telecommunications company governed by this Article:
1. Shall be responsible for maintaining in safe operating condition all equipment and fixtures owned by and under the exclusive control of the telecommunications company that are used in providing telecommunications services to the customer.
2. Shall make known to applicants for its service and to its subscribers any information necessary to assist the subscriber or customer in obtaining adequate, efficient, and reasonably priced service.

C. Continuity of Service. Each telecommunications company providing competitive telecommunications services pursuant to this Article shall make reasonable efforts to supply a satisfactory and continuous level of service.

D. Billing and Collection.
1. Each telecommunications company governed by this Article shall bill monthly for any competitive services rendered. The following minimum information must be provided on all customer bills:
   a. A description of the service provided;
   b. The monthly charge for each service provided;
   c. The company's toll-free number for billing inquiries;
   d. The amount or percentage rate of any privilege, sales, use or other taxes that are passed on to the customer as part of the charge for the service provided;
   e. Any access or other charges that are imposed by order of or at the direction of the Federal Communications Commission; and
   f. The date on which the bill becomes delinquent.
2. If the telecommunications company does not provide direct billing to its customers, it shall make arrangements for monthly bills to be rendered to all its customers. However, a local exchange carrier shall not provide billing and collection services for intrastate telecommunications services to any telecommunications company that does not have a Certificate of Convenience and Necessity from the Commission, and that does not have a certification application pending before the Commission.

E. Insufficient Funds (NSF) Checks. A telecommunications company governed by this Article may include in its tariffs a fee for each instance where a customer tenders payment for the competitive telecommunications service with an insufficient funds check. When a customer tenders an insufficient check, the telecommunications company may require the customer to make payment in cash, by money order, certified check, or other means which guarantees the customer's payment to the telecommunications company.

F. Deferred Payment Plan.
1. Each telecommunications company may, in lieu of terminating service, offer any customer a deferred payment plan to retire unpaid bills for telecommunications company service. If a deferred payment arrangement is made, current service shall not be discontinued if the customer agrees to pay a reasonable portion of the outstanding balance in installments over a period not to exceed six months and agrees to pay all future bills in accordance with the billing and collection tariffs of the telecommunications company.

2. If a customer does not fulfill the terms of a deferred payment agreement, the telecommunications company shall have the right to disconnect service pursuant to the Commission's termination of service rule, R14-2-509.

G. Late Payment Penalty. A telecommunications company governed by this Article may include in its tariffs a late payment penalty which may be applied to delinquent bills. The amount of the late payment penalty shall be stated on a customer's bill when rendered by the telecommunications company or its agent.

H. Service Interruptions.

1. Each telecommunications company shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur. The telecommunications company shall issue instructions to its employees covering procedures to be followed in the event of any emergency, including national emergencies or local disasters, in order to prevent or mitigate interruption or impairment of service. The Commission shall be notified of major interruptions in service affecting the entire system or any major division.
2. When a telecommunications company plans to interrupt service to perform necessary repairs or maintenance, the telecommunications company shall attempt to inform affected customers at least 24 hours in advance of the scheduled date and estimated duration of the service interruption. Such repairs shall be completed in the shortest possible time to minimize the inconvenience to the customers of the telecommunications company.

I. Nonpermissible Termination of Service. A telecommunications company governed by this Article may not disconnect service for:

1. The failure of a customer to pay for services or equipment which are not regulated by the Commission, or
2. For disputed bills where the customer has complied with the Commission's rules on complaints.

J. Permissible Termination of Service. Termination of service without notice may occur in accordance with the provisions of subsection R14-2-509(B). Termination of service with notice shall occur in accordance with provisions of R14-2-509(C) through (E). All local exchange carriers are prohibited from discontinuing local service for alleged delinquency of nonlocal bills.

K. Notice of Responsible Officer or Agent. Each telecommunications company governed by this Article shall file a written statement with the Commission which provides the name, address (business, residence, and post office) and telephone numbers (business and residence) of at least one officer, agent, or one employee responsible for the general management of its operations as a telecommunications company in Arizona. Each telecommunications company shall give notice of any change in this information by filing a written statement with the Commission within five days from the date of any such change.

L. Competitive Local Exchange Service. Any telecommunications company providing competitive local exchange service shall comply with the Commission's rules for establishment of service set forth in R14-2-503.

M. Denial of Service/Noncertificated Utilities. A local exchange carrier shall deny service to a noncertificated telecommunications company that intends to use the service requested to provide telecommunications service for hire, sale, or resale to the general public within the state of Arizona. Service shall not be denied if the telecommunications company has an Application for a Certificate of Convenience and Necessity pending before the Commission.

Historical Note

Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1115. Administrative Requirements

A. Customer Service Complaints. All customer service complaints concerning competitive telecommunications services shall be governed by the provisions of subsection R14-2-510(A).

B. Customer Bill Disputes. All customer bill disputes concerning competitive telecommunications services shall be governed by the provisions of R14-2-510(B) and (C).

C. Filing of Tariffs, Price Levels, and Contracts. Each telecommunications company governed by this Article shall file with the Commission current tariffs, price levels, and contracts that comply with the provisions of this Article and with all Commission rules, orders, and all other requirements imposed by the laws of the state of Arizona.

1. Current tariffs for competitive services shall be maintained on file with the Commission pursuant to the requirements of A.R.S. § 40-365.
2. Current price levels for competitive services shall be filed with the Commission pursuant to the requirements of R14-2-1109(B).
3. Contracts of telecommunications companies governed by this Article shall be filed with the Commission not later than five business days after execution. If the contract includes both competitive and noncompetitive services, it must be filed at least five business days prior to the effective date of the contract and must separately state the tariffed rate for the noncompetitive services and the price for the competitive services.
4. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.

D. Accounts and Records.

1. Each telecommunications company shall keep general and subsidiary accounting books and records reflecting the cost of its intrastate properties, assets and liabilities, operating income and expenses, and all other accounting and statistical data which reflect complete, authentic, and accurate information regarding to its properties and operations. These accounting records shall be organized and maintained in such a way as to provide an audit trail through all segments of the telecommunications company's accounting system.
2. With the exception of local exchange companies, each telecommunications company providing competitive telecommunications services shall maintain its books and records in accordance with Generally Accepted Accounting Principles as promulgated by the Financial Accounting Standards Board and its successors, as amended by any subsequent modification or official pronouncement thereto, which directly relates to regulated industries.

E. Production of Accounts, Records, and Documents.

1. All telecommunications companies governed by this Article shall immediately make available, at the time and place the Commission may designate, any accounting

records that the Commission may request. Accounting records shall include all or any portion of a telecommunications company's formal and informal accounting books and records along with any underlying and/or supporting documents regardless of the physical location of such books, records, and documents. Accounting records shall also include all books, records or documents which specifically identify, support, analyze, or otherwise explain the reasonableness and accuracy of affiliated interest transactions.

2. The Commission, at its sole discretion, may inspect any telecommunications company's formal and/or informal accounting books, records, and documents at the company's business premises or at its authorized representative's business premises which may be outside the state of Arizona. If inspection of the telecommunications company's accounting records does take place outside the state of Arizona, the telecommunications company will, to the extent legally permissible, assume all reasonable costs of travel, lodging, per diem, and all other miscellaneous costs incurred by participating personnel employed by the Commission or personnel contracted to represent the Commission in any manner.

F. Annual Reports to the Commission. All telecommunications companies providing competitive telecommunications services pursuant to this Article shall submit an annual report to the Commission which shall be filed on or before the 15th day of April for the preceding calendar year.

1. The annual report shall be in a form prescribed by the Commission and, at a minimum, shall contain the following information:
   a. A statement of income for the reporting year similar in format to R14-2-103, Schedule (C)(1) or (E)(2). The income statement shall be Arizona-specific and reflect operating results in Arizona.
   b. A balance sheet as of the end of the reporting year similar in format to R14-2-103, Schedule (E)(1). The balance sheet shall be Arizona-specific.
2. Annual reports filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.

G. Reports to the Securities and Exchange Commission. All telecommunications companies shall file with the Commission a copy of all reports required by the Securities and Exchange Commission.

H. Other Reports. All telecommunications companies shall file with the Commission a copy of all annual reports required by the Federal Communications Commission and, where applicable, annual reports required by the Rural Electrification Administration or any other agency of the United States.

I. Variations, Exemptions of Commission Rules. The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 11) upon the verified application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.

Historical Note
Adopted effective June 27, 1995, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

ARTICLE 12. ARIZONA UNIVERSAL SERVICE FUND

R14-2-1201. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "Administrator" is the person designated pursuant to R14-2-1212 to administer the AUSF and perform the functions required by this Article.
2. "Arizona Corporation Commission" or "Commission." The regulatory agency of the state of Arizona having jurisdiction over public service corporations operating in Arizona.
3. "Arizona Universal Service Fund" or "AUSF" is the funding mechanism established by this Article through which surcharges are collected and support paid in accordance with this Article.
4. "AUSF Support" is the amount of money, calculated pursuant to this Article, which a provider of basic local telephone exchange service is eligible to receive from the AUSF pursuant to this Article.
5. "AUSF Support Area" is the geographic area for which a local exchange carrier's eligibility to receive AUSF support is calculated.
6. "Basic local exchange telephone service" is telephone service that provides the following features:
   a. Access to 1-party residential service with a voice grade line;
   b. Access to touchtone capabilities;
   c. Access to an interexchange carrier;
   d. Access to emergency services, including but not limited to emergency 911;
   e. Access to directory assistance service;
   f. Access to operator service;
   g. Access to a white page or similar directory listing; and
   h. Access to telephone relay systems for the hearing and speech impaired.
7. "Benchmark rates" for a telecommunications services provider are those rates approved by the Commission for that provider for basic local exchange telephone service, plus the Customer Access Line Charge approved by the Federal Communications Commission.
8. "Commercial Mobile Radio Service" is any radio communication service carried on between mobile stations or receivers and land stations, or by mobile stations communicating among themselves, that is provided for profit and that makes available to the public service that is connected to the public switched network.
9. "Conversion Factor" is a multiplier that is used to convert a quantity of interconnecting trunks for both wireless and wireline customers into equivalent access lines, for the sole purpose of developing Category 1 surcharges. The value of the Conversion Factor shall be 10 until completion of the review provided for in R14-2-1216.
10. "Interconnecting Trunk" is a 1-way or 2-way voice grade or equivalent voice grade switched message transmission channel furnished by a local switched access provider to a provider of wireless services or to a wireline customer of such local switched access provider to interconnect the

provider of wireless services or wireline customer to the public switched network.

11. "Intermediate Local Exchange Carriers" are incumbent providers of basic local exchange telephone service with more than 20,000 access lines but fewer than 200,000 access lines in Arizona.
12. "Large Local Exchange Carriers" are incumbent providers of basic local exchange telephone service serving 200,000 or more access lines in Arizona.
13. "Small Local Exchange Carriers" are incumbent providers of basic local exchange telephone service with 20,000 or fewer access lines in Arizona.
14. "Total Service Long Run Incremental Cost" is the total additional cost incurred by a telecommunications company to produce the entire quantity of a service, given that the telecommunications company already provides all of its other services. Total Service Long Run Incremental Cost is based on the least cost, most efficient technology that is capable of being implemented at the time the decision to provide the service is made.
15. "U.S. Census Blocks" are geographic areas defined by the U.S. Department of Commerce. The areas, which define the way in which census data is aggregated, generally contain between 250 and 550 housing units.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1202. Calculation of AUSF Support

A. The amount of AUSF support to which a provider of basic local exchange telephone service is eligible for a given AUSF support area shall be based upon the difference between the benchmark rates for basic local exchange telephone service provided by the carrier, and the appropriate cost to provide basic local exchange telephone service as determined by the Commission, net of any universal service support from federal sources.

B. For a small local exchange carrier, the AUSF support area shall include all exchanges served by the local exchange carrier in Arizona. The appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support for a small local exchange carrier shall be the embedded cost of the incumbent provider. For any request for AUSF support by a small local exchange carrier filed more than 3 years after the effective date of this Article, the AUSF support area shall be the geographic areas as determined by the Commission.

C. For an intermediate local exchange carrier, the AUSF support area shall be either all exchanges in Arizona served by that carrier, or such other support area as may be approved by the Commission. The appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support for an intermediate local exchange carrier shall be the embedded cost of the incumbent provider. For any request for AUSF support by an intermediate local exchange carrier filed more than 3 years after the effective date of this Article, the AUSF support area shall be geographic areas as determined by the Commission, and the appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support shall be the Total Service Long Run Incremental Cost of the incumbent provider. In the event that the FCC adopts a somewhat different forward-looking costing methodology and/or a different geographic study/support area for the Federal universal service fund program, a local exchange carrier may request a waiver from this rule in order to utilize the same cost study methodology and/or geographic study areas in both jurisdictions.

D. For a large local exchange carrier, the AUSF support area shall be U.S. census block groups, and the appropriate cost of providing basic local exchange telephone service for purposes of determining AUSF support shall be the Total Service Long Run Incremental Cost. In the event that the FCC adopts a somewhat different forward-looking costing methodology and/or a different geographic study/support area for the Federal universal service fund program, a local exchange carrier may request a waiver from this rule in order to utilize the same cost study methodology and/or geographic study areas in both jurisdictions. Any request for AUSF support by a large local exchange carrier shall include a Total Service Long Run Incremental Cost study, or cost study based on FCC adopted methodology, of basic local exchange service. The cost study shall be developed and presented in a manner that identifies the cost for the individual support areas for which AUSF funding is being requested.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1203. Request for AUSF Support

A provider of basic local exchange telephone service may request that the Commission authorize AUSF support with a filing under R14-2-103 or other method as the Commission may prescribe, and upon compliance with all applicable rules set forth in R14-2-1101 through R14-2-1115. A request for AUSF support shall include a statement describing the need for such funding. The Commission shall determine the appropriate cost of providing basic local exchange service for each AUSF support area for which AUSF support is requested and shall calculate in accordance with R14-2-1202 the amount of AUSF support, if any, to which the applicant is entitled.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1204. Funding of the AUSF

A. The AUSF shall be funded in accordance with this Article by all telecommunications service providers that interconnect to the public switched network. Within 30 days of the effective date of this Article, and thereafter on or before October 1 of each year, each telecommunications provider shall provide to the Administrator a list of all other telecommunications providers that interconnect to its facilities or network.

B. The AUSF shall be funded equally by toll and local customers of the providers of telecommunications services, and shall be assessed in the following manner:

1. Category 1 - Providers of basic local exchange service, as discussed in R14-2-1204(B)(1)(a), and other service providers as required under R14-2-1204(B)(1)(a)(i) or permitted under R14-2-1204(B)(3)(b), shall be considered providers of Category 1 service.
   a. One-half of the AUSF funding requirement will be collected through Category 1 service providers. Category 1 AUSF assessment will be based upon access lines and interconnecting trunks, and assessed by providers of local switched access as either an access line or interconnecting trunk surcharge. The "per access line" surcharge to be in place during a given year will be calculated by the Administrator using the total number of access lines and equivalent

access lines deriving from interconnecting trunks that were in service for all Category 1 service providers on October 1 of the previous year. Access lines shall include business and residence lines, public access lines, and other identifiable access lines. All wireless providers including but not limited to paging and other Commercial Mobile Radio Service providers, that interconnect to the public switched network will contribute to the AUSF under the requirements of Category 1. The number of interconnecting trunks obtained from the local access provider by the wireless provider shall be utilized in conjunction with a Conversion Factor to determine AUSF support from such wireless provider by means of a surcharge on such interconnecting trunks. A wireless provider that fails to contribute to the AUSF as required by this Article shall be subject to termination of its interconnection arrangements pursuant to R14-2-1214(C).

b. On or before November 1 of each year, each Category 1 local switched access service provider shall provide to the Administrator the number of access lines and number of interconnecting trunks that were in service on October 1 of that year. The Administrator will use these numbers together with the Conversion Factor in calculating the per access line surcharge and per interconnecting trunk surcharge for the following year. The Administrator will multiply the total number of interconnecting trunks by the Conversion Factor to obtain an equivalent number of access lines for the purpose of calculating the surcharges.

2. Category 2 - Providers of intrastate toll service, or other service providers as permitted under R14-2-1204(B)(3), shall be considered providers of Category 2 service and shall be assessed AUSF charges as follows:
   a. One-half of the AUSF funding requirement will be collected through Category 2 service providers. The Category 2 AUSF assessment will be based on total Arizona intrastate toll revenue, and assessed as a percent of revenue. The percent of revenue assessment to be in place during a given year will be calculated by the Administrator using the annual Arizona intrastate revenue for all Category 2 service providers for the previous year.
   b. On or before November 1 of each year, each Category 2 service provider shall report to the Administrator the total Arizona intrastate revenue collected between August 1 of the current year and August 1 of the previous year. The Administrator will use this revenue so reported to calculate the AUSF assessment rate for the following year.
3. New telecommunications service providers.
   a. Telecommunications providers that begin providing basic local exchange service after the effective date of this Article shall be assessed AUSF charges pursuant to R14-2-1204(B)(1). Telecommunications providers that begin providing toll service after the effective date of this Article shall be assessed AUSF charges pursuant to R14-2-1204(B)(2).
   b. All other telecommunications service providers that interconnect to the public switched network and begin providing telecommunications service after the effective date of this Article, shall choose to be considered either a Category 1, Category 2, or both Category 1 and Category 2 service provider. Such election shall be made in writing to the Administrator within 30 days of beginning to provide telecommunications service in Arizona, with a copy to the Director of Utilities. Written concurrence of the Director of Utilities must be received by the Administrator for such selection to be effective. Such selection will be irrevocable for a period of at least 3 years.
4. A telecommunications provider that provides both Category 1 and Category 2 services shall be assessed AUSF charges pursuant to both R14-2-1204(B)(1) and R14-2-1204(B)(2).

Historical Note

Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1205. Calculation of Surcharges

A. The Administrator will calculate the total AUSF support due all local exchange carriers who have been granted AUSF support by the Commission. Administrative costs and audit fees will be added to this amount. The amount of any excess funds in the AUSF will then be subtracted to determine the total funding requirement. The funding requirements from Category 1 and Category 2 service providers will then be calculated. One half of the funding will be obtained from Category 1 providers through surcharges applied to access lines and interconnecting trunks in service. The other half will be obtained from Category 2 providers through surcharges on intrastate toll revenues.

B. For the purpose of determining the surcharges, the Administrator will develop growth factors to apply to the total reported access lines and toll revenues. Such growth factors will be calculated at 1/2 of the estimated annual percentage growth in access lines and in toll revenues.

C. Category 1 Surcharge. One-half of the total annual AUSF support approved by the Commission for all eligible recipients will be obtained from Category 1 service providers. A monthly per access line surcharge and a monthly per interconnecting trunk surcharge required to obtain this funding will be calculated as follows:
1. Adding together the number of access lines and equivalent access lines for all Category 1 service providers, adjusted by the growth factor;
2. Dividing the total annual AUSF support approved by the Commission for all eligible recipients by 2 to obtain the portion of AUSF support required from Category 1 service providers;
3. Dividing the amount of Category 1 AUSF support calculated in subsection (C)(2) by the sum of access lines calculated in subsection (C)(1) to yield the per access line surcharge;
4. Dividing the per access line surcharge calculated in subsection (C)(3) by 12 to determine the monthly access line assessment;
5. Multiplying the surcharge obtained in subsection (C)(4) by the Conversion Factor to determine the monthly interconnecting trunk surcharge.

D. Category 2 Surcharge. One-half of the total annual AUSF support approved by the Commission for all eligible recipients will be obtained from Category 2 service providers. A percent of revenue surcharge required to obtain this funding will be calculated as follows:
1. Totaling the annual intrastate toll revenues of all Category 2 service providers, adjusted by the growth factor;

2. Dividing the total AUSF support approved by the Commission for all eligible recipients by 2 to obtain the portion of AUSF support required from Category 2 service providers;
3. Dividing the amount of Category 2 AUSF support requirement calculated in subsection (D)(2) by the total annual intrastate toll revenues calculated in subsection (D)(1) to arrive at a percentage of revenue surcharge.

E. Recipients of lifeline or other low-income support shall be exempt from paying a Category 1 surcharge.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1206. Implementation

A. Any provider of telecommunications service may file either an AUSF tariff or price list, if appropriate, establishing a flow-through mechanism to collect the surcharge approved by the Commission and calculated by the Administrator.

B. On or before the 20th day of each month, each Category 1 service provider responsible for collecting AUSF surcharges shall remit to the Administrator the AUSF surcharge, including any surcharge on wireless providers, collected by that provider during the preceding month. The Category 1 provider shall submit such documentation of AUSF revenues from the AUSF surcharge as may be required by the Administrator.

C. On or before the 20th day of each month, each Category 2 service provider responsible for collecting AUSF surcharges shall remit to the Administrator the AUSF surcharge collected by that provider during the 3rd preceding month. The Category 2 provider shall submit such documentation of AUSF revenues from the AUSF surcharge as may be required by the Administrator.

D. Eligible recipients of AUSF support are:
1. Providers of telecommunications service engaged in providing basic local exchange telephone service in Arizona which have obtained a Commission order authorizing payments from the AUSF; and
2. Providers that become entitled to AUSF support based upon the provisions of R14-2-1206(E).

E. If the Commission approves AUSF support to a provider of telecommunications service for a defined area, such AUSF support shall also be available to competitive providers of basic local exchange service in the same defined area that are contributing to the AUSF, and that are willing to provide service to all customers in the specific AUSF support area as defined by the Commission. The AUSF support to which the competitive provider is eligible shall be calculated on a per-customer basis, at the same level at which the incumbent provider of telecommunications service receives AUSF support, and shall not result in an increase in the total AUSF support available for the specific census block groups or study area. If basic exchange service is provided through the resale of another carrier's local loop facilities, AUSF support will only be available to the retail service provider if AUSF support is not included in the wholesale price for the resold local service. This Section shall not apply to small local exchange carriers nor to the universal service support being received by any telecommunications service provider as of the effective date of this Article.

F. For small local exchange carriers and for any basic local exchange telephone service provider receiving universal service support as of the effective date of this Article, the AUSF support shall not be available to competitive providers of basic local exchange service prior to completion of the review provided for in R14-2-1216. Following completion of the review, AUSF support provided to small and intermediate local exchange carriers shall be available to all competitive providers of basic local exchange service in the same defined area that are contributing to AUSF, and that are willing to provide service to all customers in the specific geographic study area as defined by the Commission, unless otherwise ordered by the Commission.

G. Defined area, study area, geographic area, and support area mean the same area during the 1st 3 years of the effective date of this Article. After the 1st 3 years, they will still have the same meaning unless otherwise ordered by the Commission.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1207. Calculation of Monthly Payments and the Associated Collections

A. For the monthly Category 1 AUSF payment, each provider of local switched access shall remit to the Administrator an amount equal to the number of access lines in service on the 1st day of the month, times the monthly surcharge per access line plus the number of interconnecting trunks in service on the 1st day of the month, times the monthly interconnecting trunk surcharge.

B. The monthly AUSF payment that each Category 2 provider shall remit to the Administrator is an amount equal to its monthly intrastate toll revenue times the monthly surcharge percentage.

C. Payments must be received by the Administrator by the 20th day of each month. If the payment amount is greater than $10,000, then it shall be wire transferred to the Administrator.

D. The Administrator shall enter into an appropriate non-disclosure agreement with each telecommunications service provider to assure that information necessary to allocate AUSF funding obligations and to calculate surcharges is reported, maintained, and used in a manner that will protect the confidentiality of company specific data. The Administrator shall not use confidential data for any purpose other than administering the AUSF.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1208. Monthly AUSF Disbursements

A. AUSF disbursement shall be made 30 days following the date of AUSF collections.

B. The Administrator shall not make AUSF support payments to a provider of telecommunications service until the Administrator has received a copy of a Commission decision authorizing the provider to receive such support.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1209. Procedures for Handling AUSF Rate Changes

A. Category 1 and Category 2 AUSF surcharges shall be revised when the Commission authorizes new or revised AUSF payments to any provider of telecommunications service. The Administrator shall calculate the new AUSF flow-through surcharges in accordance with this Article, which surcharges shall become effective upon the Commission's approval of the new or revised AUSF payments.

B. An annual calculation to revise AUSF flow-through surcharges shall be made by the Administrator on December 1 of each year with an effective date the following January 1. The flow-through surcharges shall be calculated so that the total AUSF funding will equal the AUSF revenue requirements, plus administrative costs as well as any corrections and true-ups. No later than December 1 of each year, the Administrator shall provide notice to the Commission and all telecommunication service providers who pay into the AUSF of the flow-through surcharge rates for the following calendar year.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1210. Statement of Participation of All Telecommunications Service Providers in the AUSF

A. Within 30 days of the effective date of this Article, each telecommunications service provider shall provide a letter to the Administrator acknowledging that provider's obligation under this Article to pay AUSF surcharges. Failure to provide such a letter shall be grounds for termination after written notice from the Administrator of the provider's interconnection with the public switched network.

B. Any telecommunications service provider which begins providing telecommunications service after the effective date of this Article shall, within 30 days of beginning to provide intrastate service in Arizona, provide a letter to the Administrator acknowledging that provider's obligation under this Article to make monthly payments for the local and/or toll portion, as appropriate, of the AUSF contribution in accordance with this Article. Failure to provide such a letter shall be grounds for denying to the provider interconnection with the public switched network.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1211. Duties and Responsibilities of the AUSF Administrator

The Administrator shall:

1. Develop, obtain, and, on or before December 15 of each year, file with the Commission such information and documentation as the Administrator deems necessary for the establishment and calculation of the Category 1 and Category 2 surcharges for the succeeding year. Such a filing shall also be made each time the Commission authorizes a change in the AUSF funding requirement.
2. Monitor the AUSF payments of all telecommunications providers.
3. Oversee the billing of AUSF surcharges.
4. Prepare the necessary forms to be used in reporting the AUSF collections and disbursements and maintain monthly records.
5. Coordinate the collection and disbursement of AUSF monies in accordance with this Article.
6. Prepare an annual report that provides a detailed accounting of the AUSF collections and disbursements and that identifies the annual cost of administration. The report shall be filed with the Commission on or before April 15 of each year.
7. Monitor procedures for auditing the AUSF collections and disbursements. The audit function shall be performed by an independent outside auditor.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1212. Interim Administrator

US WEST Communications, Inc., will serve as interim Administrator of the AUSF and will perform the functions detailed herein that are required of the Administrator for a transition period until a private, neutral 3rd party is appointed by the Commission to serve as Administrator of the AUSF. A neutral 3rd party selected through the competitive bid process shall be appointed no later than July 1, 1997.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1213. Guidelines for Auditing the AUSF

A. The AUSF records covering both collections and disbursements shall be audited at the end of the 1st year following the designation of a 3rd party administrator. The AUSF records will then be audited at least once every other year in the subsequent years of operations.

B. The records shall be examined for accuracy and the existence of effective internal controls to ensure that the AUSF is being administered appropriately and properly.

C. An independent external auditor selected by the Commission shall be utilized to provide an unbiased audit opinion concerning the AUSF administration procedures and controls.

D. Any costs for conducting audits will be deducted from the revenues of the AUSF prior to disbursement of funds.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1214. Enforcement of Collection of Delinquent AUSF Amounts

A. The Administrator shall issue past due notices to each provider of telecommunications service that is 15 days or more delinquent in submitting its AUSF payments to the Administrator. A copy of this notice shall be provided to the Commission.

B. AUSF support payments shall be withheld from any provider of telecommunications service that is delinquent in submitting its AUSF payments to the Administrator. Each provider of telecommunications service will be fully liable for any accrued interest owing on its AUSF contributions that remain unpaid for 30 days. Such delinquent AUSF payments will begin accruing interest at the rate of 1 and 1/2% per month beginning with the 31st day until such amount is paid in full along with all accrued interest.

C. The local switched access service provider shall promptly notify the Commission and the Administrator of the identity of any wireless provider which fails or refuses to pay its AUSF surcharge. Such notice shall also be directed to the wireless provider. If the wireless provider has not paid the amount due within 30 days of such notice, the interconnection provider shall terminate the wireless provider's interconnection until the full amount together with all accrued interest, is paid in full (unless the payment is in bonafide dispute and the wireless carrier has paid the undisputed amount).

D. Failure by a telecommunications service provider to comply with the provisions of this Article may result in sanctions as determined by the Commission.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1215. AUSF Annual Report

A. On or before April 1 of each year, the Administrator shall file with the Commission an annual report which shall summarize the preceding year activity and contain the following:
1. A statement of AUSF collections and disbursements.
2. A record of the total cost of administration of the AUSF.
3. Audit reports from the audits conducted during the year.

B. A copy of the annual report shall be provided to each provider of telecommunications service who contributes to the AUSF.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1216. Review Process

A. Not later than 3 years from the effective date of this Article, the Commission staff shall initiate a comprehensive review of this Article and shall provide the Commission with recommendations regarding any necessary changes to the Article. Any interested party may also make such recommendations. The Commission shall consider these recommendations in such proceeding as the Commission deems appropriate.

B. The costs used to calculate AUSF funding levels for a given provider or AUSF support area shall be reviewed by the Commission at least every 3 years following the effective date for any authorized AUSF support for the provider or study area. The Commission may reduce the authorized funding level and require that the AUSF surcharge be recalculated on the basis of this review.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-2-1217. Supersession of Existing USF Mechanism

The universal service funding mechanism initially approved by the Commission in Decision No. 56639 (September 22, 1989) is superseded by this Article, except that any calculation, contribution or collection of, or entitlement to, universal service fund support approved by the Commission prior to the adoption of this Article shall remain in effect until otherwise ordered by the Commission or until the application of this Article leads to a different result.

Historical Note
Adopted effective April 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

Editor's Note: The Arizona Corporation Commission has determined that the following Article is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

ARTICLE 13. TELECOMMUNICATIONS INTERCONNECTION AND UNBUNDLING

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1301. Application of Rules

These rules govern interconnection requirements as provided in R14-2-1112. These rules apply to the provision of local exchange services by and between local exchange carriers as those terms are defined in R14-2-1102.

Historical Note
Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1302. Definitions

In this Article, unless the context otherwise requires, the following definitions shall apply:

1. "800 data base" means an 800 service data base that contains information on the screening and routing of 800 numbers that are in service.
2. "AIN data base" means a data base that is used in connection with an Advanced Intelligent Network (AIN) architecture. The AIN architecture enables telecommunications service providers to introduce advanced telecommunications services.
3. "ALI" or "Automatic Location Identification" means the process of electronically identifying and displaying the name of the subscriber and address of the calling telephone number to a person answering a 911 call.
4. "Central Office Code" means the 1st 3 digits of a 7-digit telephone number. Central office codes are assigned to telecommunications providers by the central office code administrator in accordance with the industry's central office code assignment guidelines.
5. "Centralized Message Distribution System" or "CMDS" means the system managed by Bellcore that assists in billing 3rd party calls. Access to CMDS requires a Bellcore client company host.
6. "Directory Assistance Database Listings" means customer name, address, and telephone number listings in the LEC directory assistance database.
7. "E911" access means the ability of a LEC to interconnect with and deliver emergency calls, and associated ANI and ALI information, where available, to the E-911 controlling office for further routing to the appropriate Public Safety Answering Point.
8. "Essential facility or service" means any portion, component, or function of the network or service offered by a provider of local exchange service: that is necessary for a competitor to provide a public telecommunications service; that cannot be reasonable duplicated; and for which there is no adequate economic alternative to the competitor in terms of quality, quantity, and price.
9. "Extended Area Service" or "EAS" means local (toll-free) calling provided between local exchange carrier exchanges (service areas).
10. "Incumbent Local Exchange Carrier" means any company providing service as a local exchange carrier in Arizona prior to June 23, 1995.
11. "Interconnection Services" means those features and functions of a local exchange carriers network that enable other local exchange carriers to provide local exchange and exchange access services. Interconnection services include, but are not limited to, those services offered by local exchange carriers

which have been classified by the Commission as essential services.

12. "LIDB" or "Line Information Data Base" means a data base that contains access line information that is used by telecommunications service providers for billing validation.
13. "Local Exchange Carrier" or "LEC" means a telecommunications company that provides local exchange service as 1 of the telecommunications services it offers to the public.
14. "Local Number Portability" means permitting customers to choose between authorized providers of local exchange services within a given wire center without changing their telephone number and without impairment of quality, functionality, reliability, or convenience of use.
15. "Mutual traffic exchange" means the exchange of terminating local and EAS traffic between LECs such that all LECs terminate the local exchange traffic of all other LECs without explicitly charging each other for such traffic exchange.
16. "New Entrant Local Exchange Carrier" or "NELEC" means any company certificated by the Commission after June 23, 1995, as a local exchange carrier.
17. "Numbering Plan Administration" or "NPA" means a specific geographic area identified by a unique NPA code. The NPA (area code) is a 3-digit code that identifies the NPA for purposes of call routing. The NPA Administrator is the entity within a NPA that assigns central office prefixes (telephone numbers) to users in the NPA.
18. "Public Safety Answering Point" or "PSAP" means a communications facility operated on a 24-hour basis that is assigned the responsibility to receive 911 calls and, as appropriate, to dispatch public or private safety services or to extend, transfer, or relay 911 calls to the appropriate public or private safety agencies.
19. "Rate Center" means specific geographic locations from which airline mileage measurements are determined for the purpose of rating local, Extended Area Service (EAS), and toll traffic.
20. "Reciprocal Compensation" means the arrangement by which local exchange carriers compensate each other for like services used in the termination of local calls between the customers of the 2 carriers.
21. "Resale of local service" means the purchase by a local exchange carrier from another local exchange carrier a local exchange service provisioned directly to an end-user customer and rebrands it as its own service.
22. "Total Service Long Run Incremental Cost" or "TSLRIC" is as defined in R14-2-1102(17).
23. "White Pages Listings" means customer name, address, and telephone number listings in the white pages Section of LEC telephone directories.
24. "Yellow Pages Listings" means customer name, address, and telephone number listings in the yellow pages Section of LEC telephone directories.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1303. Points of Interconnection

A. Incumbent LECs and NELECs shall, by mutual agreement, arrange for the points of interconnection of their respective networks.

B. Each company interconnecting pursuant to the provisions of this Section shall be responsible for building and maintaining its own facilities to the point of interconnection. Companies are free to negotiate points of interconnection that involve the recurring and non-recurring compensation by 1 carrier for the transport facilities of another carrier.

C. Each company interconnecting pursuant to the provisions of this Section shall be responsible for the traffic that originates on its network up to the point of interconnection, and for the terminating traffic handed off at the point of interconnection to the call's destination.

D. Should the companies negotiating interconnection arrangements not be able to agree upon the points of interconnection, written notice to that effect shall be made to the Commission Staff by the carrier responding to the interconnection request. The notice shall contain a detailed description of the request itself and why interconnection at the point requested is not feasible.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1304. Reciprocal Compensation

A. Local and EAS traffic shall be terminated by the LECs over the interconnection facilities described in R14-2-1303 on the basis of mutual traffic exchange, for a period of 24 months from the effective date of Commission approval of the 1st interconnection agreement pursuant to R14-2-1506.

B. Any charges for the underlying transport facilities between the carriers shall be limited to the construction and maintenance charges specified in R14-2-1303.

C. Notwithstanding the provisions of subsection (A), compensation arrangements may be made by mutual agreement between companies.

D. If incumbent local exchange carriers and new entrant local exchange carriers do not arrive at compensation arrangements for local call termination by mutual agreement, they shall each file tariffs proposing permanent compensation mechanisms for terminating local calls within 18 months of the effective date of Commission approval of the 1st interconnection agreement pursuant to R14-2-1506. This Commission has expressed a preference for flat rate local calling and therefore those tariffs shall not contain usage-sensitive call termination charges, unless otherwise approved by the Commission.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1305. Local and Toll Rating Centers

A. The incumbent LEC's local calling areas and existing EAS boundaries will be utilized for the purpose of classifying traffic as local, EAS, or toll for purposes of intercompany compensation.

B. All LECs will use central office codes with rate centers matching the incumbent LEC's rate centers.

C. All LECs shall be assigned the necessary central office codes for rate purposes.

D. Until a central office code administrator is designated by the Federal Communications Commission to replace US West Communications, Inc., central office codes will be assigned to LECs, at no charge, in accordance with the industry's central office code assignment guidelines.

E. No LEC may charge another LEC for changes to switch routing software necessitated by the creation, assignment, or reassignment of NPA or central office codes.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1306. Access to Databases and other Network Functions

A. All LECs, including new and incumbent LECs, are required to provide nondiscriminatory access to all necessary network functions, databases, and service components required to provide competitive local exchange services. These elements include, but are not limited to, directory assistance database listings, white page listings, yellow page listings, 800 LIDB and AIN databases, CMDS hosting, Busy Line Verification and Busy Line Interrupt operator services, distribution of telephone directories, inclusion of NELEC information in the Call Guide Section of the directory, and E-911.

B. Access to additional network functions, databases, and service components may be required from time to time by order of the Commission. This provision does not preclude the incumbent LEC and NELECs from negotiating voluntary arrangements for access to additional network functions, databases, or service components so long as the contracts for the voluntary arrangements are filed with the Commission and such access is made available to all other NELECs, upon request, under nondiscriminatory terms and conditions, including price.

C. Incumbent LECs shall provide access that is at least equal in type, quality, and price to that provided to themselves, to any affiliate, from any affiliate, or to another incumbent LEC.

D. LECs shall make available the call setup signaling resources and information necessary for setting up local and interexchange connections, including the use of signaling protocols used in the querying of data bases such as 800 and LIDB. LECs shall be prohibited from interfering with the transmission of signaling information between customers and network operators. LECs and NELECs shall have a duty to correct errors, support network management in a way that promotes network integrity, and prevent fraudulent use of a LEC's network.

E. All LECs and NELECs shall cooperate in the development of a process to handle intercompany service ordering, provisioning, and billing, and, repair service referrals.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1307. Unbundling

A. Local exchange carriers with less than 200,000 access lines shall be exempt from the unbundling requirements in these rules. Such exemption shall expire upon the receipt of a bona fide request from a certificated local exchange carrier for an unbundled facility, or if a carrier voluntarily chooses to offer unbundled services.

B. The local exchange carrier's network facilities or services which are determined to be essential shall be provided on terms and under conditions that are equivalent to the terms and conditions under which a local exchange carrier provides such essential facilities or services to itself in the provision of the local exchange carrier's services. The pricing of essential facilities or services shall be pursuant to R14-2-1310 on pricing.

C. The following local exchange carrier network capabilities are classified as essential facilities or services:

1. Termination of local calls,
2. Termination of long distance calls,
3. Interconnection with E911 and 911 services,
4. Access to numbering resources,
5. Dedicated channel network access connections, and
6. Unbundled loops.

D. Incumbent local exchange carriers shall make essential facilities or services available for purchase and use pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission.

E. The following guidelines apply when a certificated telecommunications company makes a bona fide request of an incumbent local exchange carrier to unbundle any network facility or service capability not identified in subsection (C) or when a certificated telecommunications company makes a bona fide request to a NELEC that is the sole owner of essential facilities in the geographic area to unbundle any network facility or service capability. The request shall specify whether the network facility or service is considered by the requesting company to be essential.

1. For the 12 months following the effective date of these rules, the local exchange carrier shall respond to any such request in writing within 120 days. Thereafter, the local exchange carrier shall respond to any such request in writing within 90 days.
2. The response to an unbundling request shall clearly state whether the LEC or NELEC intends to provide the network facility or service on an unbundled basis and, if requested, whether it will be offered as an essential facility or service. If the LEC or NELEC does not intend to provide the requested network facility or service, the response shall state the basis for such refusal.
3. If the local exchange carrier or NELEC agrees to provide the network facility or service on an unbundled basis, the facility or service shall be provided pursuant to negotiated agreements or an approved statement of terms and conditions which shall be filed with the Commission.

4. If the local exchange carrier or NELEC asserts that unbundling the network facility or service is not technically feasible, notice to that effect shall be made to the requesting party and to the Commission.

Historical Note
Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1308. Number Portability

A. All local exchange carriers shall make local number portability available to facilitate the ability of a customer to switch between authorized local exchange carriers within a given wire center without changing their telephone number and without impairment of quality, functionality, reliability, or convenience of use. Implementation of local number portability or other forms of local number portability shall be based on a technically and economically feasible solution that meets the needs of Arizona consumers and carriers in a competitively neutral manner.

B. An incumbent local exchange carrier serving less than 200,000 access lines will not be required to implement local number portability solutions absent the certification and commitment by a new entrant local exchange carrier to provide service on a facilities basis in the incumbent's service territory.

C. Until such time as local number portability becomes available through database technology, local exchange carriers shall provide interim local number portability pursuant to negotiated agreements or an approved statement of terms and conditions, which shall be filed with the Commission, and shall in addition comply with such other or additional requirements as may be adopted by the Commission.

D. All telecommunication providers who terminate traffic into an exchange, or exchanges, in which the local number portability database solution has been implemented shall utilize the database solution to ensure efficient and appropriate routing of traffic to Arizona customers.

Historical Note
Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R-14-2-1309. Cost Methodology

TSLRIC is the cost standard to be employed by the incumbent local exchange carrier in conducting the cost studies that establish the underlying cost of local exchange carrier services including unbundled essential facilities and services.

Historical Note
Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1310. Pricing

A. Pricing of Basic Communication Services.

1. The incumbent local exchange carrier shall provide the Commission with price floor calculations for local exchange and long distance services to ensure the avoidance of anti-competitive pricing practices. A NELEC can price below an incumbent LEC's TSLRIC price.
2. Whenever the incumbent local exchange carrier introduces a new local exchange service or long distance service, or proposes to change the rate for an existing local exchange service or long distance service, the local exchange carrier shall provide to the Commission information that demonstrates that the proposed rate equals or exceeds a price floor calculation for that service using an imputation test described in subsection (C).

B. Pricing of Interconnection Services by Local Exchange Providers.

1. Incumbent local exchange carriers shall establish the price of each interconnection service, including access to databases and other network functions as described in R14-2-1306, at a level equivalent to its TSLRIC-derived costs which may include an assignment of verifiable indirect costs or a 10% addition for indirect costs to the TSLRIC direct costs at the choice of the incumbent LEC.
2. Interim number portability shall be provided by the incumbent local exchange carrier at a price equal to TSLRIC. Any compensation which would otherwise have been received had a local or EAS call to a forwarded number been terminated directly to a customer's chosen carrier, should be passed through from the carrier from whose network the forwarded number is assigned, to the customer's chosen carrier to whose network the number is forwarded.

C. Imputation

1. An incumbent local exchange carrier shall recover in the retail price of each telecommunications service offered by the company the TSLRIC of all nonessential, and the imputed prices of all essential services, facilities, components, functions, or capabilities that are utilized to provision such telecommunications service, whether such service is offered pursuant to tariff or private contract.
2. Imputation requirements of this Section shall be applied in a manner that will permit a carrier providing a service to a customer that is or that becomes eligible for universal service support by order of the Commission to provide such retail service at a price that is net of any Commission-ordered universal service support funding, pursuant to the provisions of the Arizona Universal Service Fund rules.

Historical Note
Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1311. Waivers

The Commission may consider variations or exemptions from the terms or requirements of any of the rules included herein (14 A.A.C. 2, Article 13) upon application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provision of the approved tariff or order of the Commission shall apply.

Historical Note

Adopted effective September 6, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

ARTICLE 14. EMERGENCY EXPIRED

R14-2-1401. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1402. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1403. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1404. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1405. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1406. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1407. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1408. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

R14-2-1409. Emergency Expired

Historical Note

Emergency rule adopted effective December 22, 1995, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 95-4). Emergency expired.

Editor's Note: The Arizona Corporation Commission has determined that the following Article is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

ARTICLE 15. ARBITRATION AND MEDIATION

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1501. Application of Rules

These rules govern procedures mandated by the Telecommunications Act of 1996, 47 U.S.C. 252, regarding the mediation, arbitration, review, and approval of interconnection agreements.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1502. Definitions

A. "Arbitration" means an alternative dispute resolution process in which the Arizona Corporation Commission decides the matter in dispute after the parties have had an opportunity to present their respective positions.

B. "Arizona Corporation Commission" or "Commission" means the regulatory agency of the state of Arizona that has jurisdiction over public service corporations operating in Arizona.

C. "Duty to Negotiate in Good Faith" means that parties meet and confer at reasonable times and places with minds open to persuasion and with an eye toward reaching agreement on mandatory subjects of bargaining.

D. "Interconnection Agreement" means a formal agreement between any telecommunications carriers providing or intend-

ing to provide telecommunications services in Arizona, setting forth the particular terms and conditions under which interconnection and resale services, as appropriate, will be provided.

E. "Mediation" means a voluntary alternative dispute resolution process in which a neutral 3rd party assists the parties in reaching their own settlement. The mediator does not have the power to impose a resolution. The role of the mediator and the goal of the process is to help the parties achieve their own resolution.

F. "Petition for arbitration" means the petition requesting arbitration of issues unresolved in the negotiation of an interconnection agreement.

G. "Petitioner" means the party to the negotiation that files the petition for arbitration with the Commission.

H. "Request for negotiation" means a formal request made by any telecommunications carrier providing or intending to provide telecommunications services in Arizona to another telecommunications carrier to negotiate an interconnection agreement.

I. "Respondent" or "responding party" means the nonpetitioning party to the request for arbitration.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1503. Negotiation

A telecommunications carrier initiating a request to negotiate shall notify the Commission when a request for negotiation has been made pursuant to 47 U.S.C. 252. The notification shall include the names of the negotiating parties and the date of the request. The notification shall be served on all parties to the negotiation.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1504. Mediation

A. Any party negotiating an agreement under 47 U.S.C. 252 may, at any point in the negotiation, ask the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

B. If a party requests mediation by the Commission, a non-Hearing Division employee of the Commission will be appointed to act as mediator.

C. A request for mediation shall contain a brief statement of the nature of the dispute and the names, addresses, and telephone and telefax numbers of the parties or their representatives. Copies of the request shall be served on all parties to the negotiation.

D. The mediator shall have discretion to regulate the course of the mediation, including scheduling of mediation sessions, in consultation with the parties. The following general procedures apply:

1. The mediator will not impose a settlement but can offer proposals for settlement;
2. The mediator may meet individually with the parties or attorneys during mediation;
3. Only the parties to the negotiation may attend the mediation session or sessions, unless all parties consent to the presence of others;
4. Parties shall provide the mediator with a brief statement of position and relevant background information prior to the 1st mediation session. The mediator may ask for this information to be supplemented;
5. The mediator will not provide legal advice to the parties, nor will any mediator's statements as to law or policy be binding on the Commission, unless later adopted by the Commission;
6. The mediation process is confidential, to the extent permitted by law. No stenographic record will be kept.

E. All parties participating in a requested Commission mediation have a duty to negotiate in good faith. The mediator may terminate the mediation if it appears that the likelihood of agreement is remote or if a party is not participating in good faith, or for other good cause. Ordinarily, a mediation should not be terminated prior to the completion of at least 1 mediation session.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1505. Arbitration

A. Filing and Service of a Petition for Arbitration.

1. During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent local exchange carrier receives a request for negotiation under 47 U.S.C.

252(b)(1), any party to the negotiation may petition the Arizona Corporation Commission to arbitrate any open issues. The petition shall request arbitration of all issues which are unresolved at the time the petition is filed. Parties may continue to negotiate or otherwise resolve the disputed issues after arbitration is requested. The pendency of a mediation shall not bar a party from petitioning the Commission for arbitration.

2. An original and 10 copies of a petition for arbitration shall be filed with the Commission. The petitioner shall deliver to the respondent a complete copy of the petition and all accompanying documentation on the same day that the petition is filed with the Commission.

B. Contents of Petition and Documentation.

1. A petition for arbitration shall clearly set forth the date upon which the original request for negotiation was received and the dates 135 days, 160 days, and 9 months thereafter.
2. A petition for arbitration shall be accompanied by all relevant documentation concerning the unresolved issues, the position of each of the parties with respect to those issues, and any other issue discussed and resolved by the parties. Relevant documentation includes, but is not limited to, the following:
   a. A brief or other written statement addressing the disputed issues. The brief should address, in addition to any other matters, how the parties' positions and any conditions requested meet or fail to meet the requirements of 47 U.S.C. 251; any applicable Federal Communication Commission regulations; and any applicable regulation, order, or policy of this Commission.
   b. Where prices are in dispute, the petitioner shall submit its proposed rates or charges and related supporting materials.
   c. Any conditions which petitioner requests be imposed.
   d. A proposed schedule for implementation of the terms and conditions of the agreement.
   e. The petition may include a recommendation as to any information which should be requested from the parties by the arbitrator pursuant to 47 U.S.C. 252(b)(4)(B). The recommendation should state why the information is necessary for the arbitrator to reach a decision on the unresolved issues.
   f. A proposed interconnection agreement.
   g. Any other documents relevant to the dispute, including copies of all documents in their possession or control on which they rely in support of their positions or which they intend to present at the arbitration.

C. Opportunity to Respond. The respondent may respond to the petition for arbitration within 25 days of the filing of the petition. The respondent shall respond to all the specific issues raised in the petition for arbitration.

D. Confidentiality. Petitions, responses, accompanying material, and any documents provided to the Commission pursuant to a request under 47 U.S.C. 252(b)(4)(B) may be subject to the Arizona public disclosure law. However, a petition or response may include a request for issuance of a protective order.

E. Discovery.

1. Parties must cooperate in good faith in the voluntary, prompt, and informal exchange of all documents and other information relevant to the disputed issues, subject to claims of privilege or confidentiality. Parties must exchange copies of all documents relevant to the dispute, including those on which they rely in support of their position or which they intend to present at the arbitration.
2. At the time of filing of a petition for arbitration, or a response, the petitioner may file discovery requests on the responding party, with an information copy provided to the arbitrator.
3. Discovery requests not responded to may be submitted to the arbitrator, with a request that the arbitrator order the discovery, pursuant to 47 U.S.C. 252(b)(4)(B). The request should include an explanation of why the information is necessary to reach a decision on the unresolved issues.
4. Failure to cooperate in discovery may be considered as a failure to negotiate in good faith.

F. Appointment and Authority of Arbitrator.

1. Arbitrations will be conducted by Commission Hearing Officers.
2. The arbitrator will exercise all authority necessary to conduct the arbitration, subject to the provisions of these rules.
3. The arbitrator may, in the arbitrator's discretion and to the extent practical, consolidate proceedings under 47 U.S.C. 252 in order to reduce administrative burdens on telecommunications carriers, other parties to the proceedings, and the Commission.
4. The arbitrator may request the assistance of members of the Commission staff in reviewing the petition and accompanying materials, to the extent such staff members have not acted as mediator with respect to the same interconnection agreement between the same parties.
5. The arbitrator will be authorized to recommend to the Commission a resolution of the disputed issues and any appropriate conditions to be imposed in the form of a Recommended Opinion and Order. The Commission will issue a final decision not later than 9 months after the date on which the local exchange carrier received the request to negotiate.

G. Arbitration Proceeding. Arbitration allows an opportunity for parties to present their positions. However, arbitration does not require sworn testimony or cross-examination of witnesses. Arbitration proceedings will be conducted pursuant to procedures established by the Hearing Officer.

H. Fees and Costs. Each party shall be responsible for bearing its own fees and costs.

I. Any person wishing to comment on the Recommended Opinion and Order may do so by filing written comments with the Commission prior to the Commission's final decision.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v.

Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1506. Filing and Service of Request for Approval of Interconnection Agreement

A. An interconnection agreement shall be submitted to the Commission for approval under 47 U.S.C. 252(e) within 30 calendar days of the issuance of the Commission's final decision on the petition for arbitration, in the case of arbitrated agreements, or, in the case of negotiated agreements, within 30 calendar days of the execution of the agreement. The 30-day deadline may be extended by the Commission for good cause.

B. An original and 10 copies of requests for approval shall be filed with the Docket Control section of the Commission. Any party to the agreement may submit a request for approval. Unless filed jointly by all parties, the request for approval and any accompanying materials should be served on the other signatories on the day of the filing.

C. A request for approval shall include the documentation set out in this subsection. The materials can be filed jointly or separately by the parties to the agreement but should all be filed by the 30-day deadline set out in subsection (A).

1. Negotiated Agreements. The following documentation must be filed:
   a. A complete copy of the signed agreement, including any attachments or appendices.
   b. A brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to why the agreement should be adopted, including a statement as to why the agreement does not discriminate against nonparty telecommunications carriers, is consistent with the public interest, convenience, and necessity, and is consistent with applicable state law requirements.
2. Arbitrated Agreements. The following documentation must be filed:
   a. A complete copy of the signed agreement, including any attachments or appendices.
   b. A brief or memorandum summarizing the main provisions of the agreement, setting forth the party's position as to why the agreement should or should not be adopted, in whole or in part, and a statement explaining how the agreement, in whole or in part, meets or does not meet each of the applicable specific requirements of 47 U.S.C. 251, including any applicable Federal Communications Commission regulations.
   c. Complete and specific information to enable the Commission to make the determinations required by 47 U.S.C. 252(d).
   d. A party may file a statement with the signed interconnection agreement, indicating that it has executed the agreement under protest and does not waive its right to appeal specified provisions of the agreement that were mandated by Order of the Commission.
3. Combination Agreements (Arbitrated/Negotiated). Any agreement containing both arbitrated and negotiated provisions shall include the foregoing materials as appropriate, depending on whether a provision is negotiated or arbitrated. The memorandum should clearly identify which provisions were negotiated and which were arbitrated.

D. Any filing not containing the required materials will be rejected and must be refiled when complete. The statutory timelines will not begin to run until a request has been properly filed.

E. Agreements containing both arbitrated and negotiated provisions will be subject to the 30-day deadline specified in 47 U.S.C. 252(e)(4).

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1507. Approval Procedure

A. Unless otherwise ordered by the Commission, a hearing will not be held for a request for approval of an interconnection agreement.

B. The Commission will enter an order approving or rejecting the interconnection agreement within 30 days of request for approval of arbitrated agreements and agreements containing both arbitrated and negotiated provisions, or within 90 days of request for approval of negotiated agreements, with written findings as to any deficiencies.

Historical Note

Emergency rule adopted effective July 23, 1996, effective for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission; filed with the Office of the Secretary of State July 15, 1996 (Supp. 96-3). Emergency expired. Emergency rule adopted again effective January 17, 1997, for a maximum of 180 days, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-1). Emergency expired. New Section adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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R14-2-1508. Amendments

Any amendments to an interconnection agreement shall be filed with the Commission and, if not rejected by the Commission within 30 days of filing, such amended agreements will become effective.

1. For negotiated amendments, including amendments resolved by Commission or private mediation, Commission rejection shall be limited to discrimination against nonparty telecommunications carriers, lack of consistency with the public interest, convenience, and necessity, or lack of consistency with applicable state law requirements.
2. For amendments resolved through arbitration, whether by the Commission or private arbitrator, Commission rejec-

tion shall be limited to failure to meet any of the applicable specific requirements of 47 U.S.C. 251, including any applicable Federal Communications Commission regulations.

Historical Note
Adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1509. Replacement or Subsequent Interconnection Agreements
Replacement or subsequent interconnection agreements are subject to the provisions of this Article.

Historical Note
Adopted effective August 27, 1997, under an exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

ARTICLE 16. RETAIL ELECTRIC COMPETITION

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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. "Aggregator" means an Electric Service Provider that combines retail electric customers into a purchasing group.
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.
5. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs from the customers of competitive services.
6. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "noncompetitive services" pursuant to R14-2-1601(29).
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.
8. "Consumer Information" is impartial information provided to consumers about competition or competitive and noncompetitive services and is distinct from advertising and marketing.
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.
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.
11. "Delinquent Accounts" means customer accounts with outstanding past-due payment obligations that remain unpaid after the due date.
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).
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.
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.
15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any 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. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
18. "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for solar-generated electricity.
19. "Independent Scheduling Administrator" (ISA) is a proposed entity, independent of transmission-owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.
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.
21. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
22. "Load-Serving Entity" means an Electric Service Provider, Affected Utility, or Utility Distribution Company,

excluding a Meter Service Provider, Meter Reading Service Provider, or Aggregators.

23. "Meter Reading Service" means all functions related to the collection and storage of consumption data.
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.
25. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
26. "Metering and Metering Service" means all functions related to measuring electricity consumption.
27. "Must-Run Generating Units" are those units that are required to run to maintain distribution system reliability and 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, Standard Offer service, transmission, and Federal Energy Regulatory Commission-required ancillary services, and those aspects of metering service set forth in R14-2-1613(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 who are not buying competitive services.
34. "Retail Electric Customer" means the person or entity in whose name service is rendered.
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, Independent Scheduling Administrator, or Independent System Operator.
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" 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, collection services, and other consumer information services.
39. "Stranded Cost" includes:
    a. The verifiable net difference between:
        i. The 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.
40. "System Benefits" means Commission-approved utility 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.
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, metering, meter reading, billing and collection, and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.
44. "Utility Distribution Company" (UDC) means the electric utility entity that constructs and maintains the distribution system for the delivery of power to the end user.
45. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.
46. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v.

Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1602. Filing of Tariffs by Affected Utilities

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

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1603. Certificates of Convenience and Necessity

A. Any Electric Service Provider intending to supply services described in R14-2-1605 or R14-2-1606, other than services subject to federal jurisdiction, 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. An Affected Utility providing distribution and Standard Offer service after January 1, 2001, need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1616(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 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. 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 change in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.

D. The applicant shall provide public notice of the application as required by the Commission.

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 serving notification of the application 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.

F. The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.

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. Does not have 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. 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, 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 R14-2-1618;
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. In appropriate circumstances, the Commission may require, 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.

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.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4). Amended effective December 31, 1998, under an exemption as determined by the Arizona Corporation Commission (Supp. 98-4).

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R14-2-1604. Competitive Phases

A. 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 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 noncoincident peak demand load of 1 MW or greater will be eligible for competitive electric services 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. During 1999 and 2000, an Affected Utility's customers with single premise noncoincident 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 October 31, 1998.

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 with the following components:

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.
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. Each Affected Utility shall file a residential phase-in program proposal to the Commission for approval by Director, Utilities Division, by September 15, 1998. Interested parties will have until September 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. 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 quarter ending March 31, 1999. The final report due under this rule shall be due within 45 days of the 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,
   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.

C. Each Affected Utility shall file a report by September 15, 1998, detailing possible mechanisms to provide benefits, 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.

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.

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

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.

Historical Note

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R14-2-1605. Competitive Services

A properly certificated Electric Service Provider may offer any of the following services under bilateral or multilateral contracts with retail consumers:
1. 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.
2. 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.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

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

A. Each Affected Utility shall make available to all consumers in its service area, as defined on the date indicated in R14-2-1602, Standard Offer bundled generation, transmission, ancillary, distribution, and other necessary services at regulated rates. After January 1, 2001, Standard Offer 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 Utility Distribution Company 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 Distribu-

tion Company may request that the Commission modify any provision of this subsection for good cause.

C. Standard Offer Tariffs
1. By the date indicated in R14-2-1602, each Affected Utility may file proposed tariffs to provide Standard Offer Bundled Service and such rates shall not become effective until approved by the Commission. 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. Affected Utilities 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 for Standard Offer service must be fully justified through a rate case proceeding.
3. Such rates shall reflect the costs of providing the service.
4. Consumers receiving Standard Offer service are eligible for potential future rate reductions authorized by the Commission, such as reductions authorized in Decision No. 59601.

D. By the date indicated in R14-2-1602, each Affected Utility shall file Unbundled Service tariffs 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 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. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.

F. 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 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 services listed in subsection (D) and requirements listed in subsection (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 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.

Historical Note

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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 means such as expanding wholesale or retail markets, or offering a wider scope of 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. 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 August 21, 1998, of distribution charges or other means of recovering unmitigated Stranded Cost 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. The ease of determining the amount of Stranded Cost;
10. The applicability of Stranded Cost to interruptible customers;
11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.

F. A Competitive Transition Charge (CTC) may be assessed 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.

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 order regular revisions to estimates of the magnitude of Stranded Cost.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

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R14-2-1608. System Benefits Charges

A. By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable 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 Companies' service area who participate in the competitive market. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge 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 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. Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.

C. An Affected Utility or Utility Distribution Company shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

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R14-2-1609. Solar Portfolio Standard

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 1 .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. If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in subsection (A) or (B) in any year, the Commission may impose a penalty on that Electric Service Provider up to 30¢ per kWh for deficiencies in the provision of solar energy. 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.

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 30¢ 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.

Historical Note

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R14-2-1610. Transmission and Distribution Access

A. The Affected Utilities shall provide nondiscriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's Standard Offer or in the competitive market. Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.

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

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 file with the Federal Energy Regulatory Commission by October 31, 1998, for approval of an Independent Scheduling Administrator having the following characteristics:

1. The Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants and shall develop and operate an overarching statewide OASIS.
2. The Independent Scheduling Administrator shall implement and oversee the nondiscriminatory application of protocols to ensure statewide consistency for transmission access. These 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.
3. The 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 Independent Scheduling Administrator participants shall be made to, or through, the Independent Scheduling Administrator using a single, standardized procedure.

D. The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Independent Scheduling Administrator implementation plan with the Commission by September 1, 1998. The implementation plan shall address Independent Scheduling Administrator governance, incorporation, financing, and staffing; the acquisition of physical facilities and staff by the Independent Scheduling Administrator; the schedule for the phased development of Independent Scheduling Administrator functionality; contingency plans to ensure that critical functionality is in place by January 1, 1999; and any other significant issues related to the timely and successful implementation of the Independent Scheduling Administrator.

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

F. It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the 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 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.

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 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, Independent Scheduling Administrator, or Independent System Operator;

5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Independent Scheduling Administrator, or Independent System Operator.

H. The Affected Utilities shall provide services from the Must-Run Generating Units to Standard Offer 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 Electric System Reliability and Safety Working Group, the Affected Utilities 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 filed with the Federal Energy Regulatory Commission, if necessary, by October 31, 1998.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1611. In-state Reciprocity

A. The service territories of Arizona electric utilities which are not Affected Utilities 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 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, 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, 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 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.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

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R14-2-1612. Rates

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

B. Each Electric Service Provider selling services under this Article shall have on file with the Commission tariffs describing such services and maximum rates for those services, but the services may not be provided until the Commission has approved the tariffs.

C. Prior to 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 this Article and the Affected Utility's or Electric Service Provider's approved tariffs, it shall not become effective without a Commission order. Such contracts shall be kept confidential by the Commission.

D. Contracts entered into on or after 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 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, 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 become effective only upon Commission approval.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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

A. Except as indicated elsewhere in this Article, R14-2-201 through R14-2-212, inclusive, are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each paragraph of R14-2-201 through R14-2-212. R14-2-203(E) and R14-2-212(H) shall pertain only to Utility Distribution Companies.

B. The following shall not apply to this Article:
1. R14-2-202 in its entirety,
2. R14-2-206 in its entirety,
3. R14-2-207 in its entirety,
4. R14-2-212 (F)(1),
5. R14-2-213,
6. R14-2-208(E) and (F).

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 written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. 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.

D. A 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. Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages and also provide notification to the Commission.

F. Each Electric Service Provider shall provide at least 45 days' notice to all of its affected consumers of its intent to cease providing generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.

G. All Electric Service Providers rendering service under this Article shall submit accident reports as required in R14-2-101.

H. An Electric Service Provider providing firm electric service governed by this Article shall make reasonable efforts to reestablish service within the shortest possible time when service interruptions occur and shall work cooperatively with other companies to ensure timely restoration of service where facilities are not under the control of the Electric Service Provider.

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, but that return of that customer to the Standard Offer would be at the next regular billing cycle. 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 the 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 subsection (A).

K. Additional Provisions for Metering and Meter Reading Services
1. 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 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 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. 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 can be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
5. 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.
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.
8. Meter ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider or their representative, or the customer, who

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. 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. 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. The performance metering specifications and standards approved by the Director, Utilities Division, will be used by all entities performing metering.

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. 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.

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.

O. Unbundled Billing Elements. All customer bills after January 1, 1999, will list, at a minimum, the following billing cost elements:

1. Electricity Costs:
   a. Generation,
   b. Competition Transition Charge, and
   c. Fuel or purchased power adjustor, if applicable;
2. Delivery Costs:
   a. Distribution services,
   b. Transmission services, and
   c. Ancillary services;
3. Other Costs:
   a. Metering Service,
   b. Meter Reading Service,
   c. Billing and collection, and
   d. System Benefits charge.

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.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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. Solar energy sales (kWh) and sources for grid connected solar resources; kW capacity for off-grid solar resources;
4. Revenues from sales by customer class (for example, residential, commercial, industrial);
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;
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);
7. Amount of and revenues from each service provided under R14-2-1605, and, if applicable, R14-2-1606;
8. Value of all assets used to serve Arizona customers and accumulated depreciation;
9. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
10. The number of customers aggregated and the amount of aggregated load;
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. 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 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. Any Electric Service Provider governed by this Article which fails to file the above data in a timely manner may be subject to a penalty imposed by the Commission or may have its Certificate rescinded by the Commission.

E. Any Electric Service Provider holding a Certificate pursuant to this Article shall report to the Director of the Utilities Division the discontinuation of any competitive tariff as soon as practicable after the decision to discontinue offering service is made.

F. In addition to the above reporting requirements, Electric Service Providers governed by this Article shall participate in Commission workshops or other forums whose purpose is to evaluate competition or assess market issues.

G. Reports filed under the provisions of this Section shall be submitted in written format and in electronic format. Electric Service Providers shall coordinate with the Commission staff on formats.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1615. Administrative Requirements

A. Any Electric Service Provider certificated under this Article may file proposed additional tariffs for 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. Contracts filed pursuant to this Article shall not be open to public inspection or made public except on order of the Commission, or by the Commission or a Commissioner in the course of a hearing or proceeding.

C. The Commission may consider variations or exemptions from the terms or requirements of any of the rules in this Article upon the application of an affected party. The application must set forth the reasons why the public interest will be served by the variation or exemption from the Commission rules and regulations. Any variation or exemption granted shall require an order of the Commission. Where a conflict exists between these rules and an approved tariff or order of the Commission, the provisions of the approved tariff or order of the Commission shall apply.

D. The Commission may develop procedures for resolving disputes regarding implementation of retail electric competition.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Amended by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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

A. All competitive generation assets and competitive services shall 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. If an Affected Utility chooses to transfer its competitive generation assets or competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.

B. Beginning January 1, 1999, an Affected Utility or Utility Distribution Company shall not provide 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.

C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1616 except if it offers competitive electric services outside of 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.

Historical Note

Adopted effective December 26, 1996, under an exemption as determined by the Arizona Corporation Commission (Supp. 96-4). Section R14-2-1616 repealed by emergency action; emergency new Section adopted by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency amendment replaced by exempt permanent amendment effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-2-1617. Affiliate Transactions

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 1st page or at the 1st 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 Affected Utility or 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 nontariffed 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 nondiscriminatory basis, provided prior affirmative customer written consent is obtained. Any noncustomer-specific nonpublic 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 nonaffiliated 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 nonpublic 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, nonaffiliated 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 nonaffiliated suppliers 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 nonaffiliated 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 nonpublicly 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.

Historical Note

Adopted by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency adoption replaced by exempt permanent adoption effective December 31, 1998 (Supp. 98-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General approval provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

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.

B. Each Load-Serving Entity 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,
7. Time period to which the reported information applies.

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 to Arizona. When a Load-Serving Entity advertises in nonprint media, or in written materials not specifically targeted to Arizona, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.

E. Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.

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, recision of supplier switches within 3 days of receipt of confirmation;
9. A toll-free telephone number for service complaints;
10. 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. The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:

1. Prior to the initiation of service for any retail customer,
2. Prior to processing written authorization from a retail customer with a load of less than 1 MW to change Electric Service Providers,
3. To any person upon request,
4. Made a part of the annual report required to be filed with the Commission pursuant to law.
5. The information described in this subsection shall be posted on any electronic information medium of the Load-serving Entities.

H. Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.

I. The Commission 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.

Historical Note

Adopted by an emergency action effective August 10, 1998, pursuant to A.R.S. § 41-1026, in effect for a maximum of 180 days (Supp. 98-3). Emergency adoption replaced by exempt permanent adoption effective December 31, 1998 (Supp. 98-4).

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS; SECURITIES REGULATION

CHAPTER 3. CORPORATION COMMISSION RULES OF PRACTICE AND PROCEDURE

ARTICLE 1. RULES OF PRACTICE AND PROCEDURE BEFORE THE CORPORATION COMMISSION

Section
R14-3-101. Scope and construction of rules, special orders
R14-3-102. Filing, fees, communications, hearing calendar and general provisions
R14-3-103. Parties
R14-3-104. Appearances, rights of parties, representation by attorney, conduct and former employees
R14-3-105. Intervention as party and other appearances
R14-3-106. Formal documents, requirement and timeliness, motions, informal complaints and protests
R14-3-107. Filing and service of formal documents
R14-3-108. Prehearing conference
R14-3-109. Hearings, prehearings, conduct of hearings, procedure, evidence, subpoenas, briefs, arguments, official notice and rulings
R14-3-110. Hearing officer recommendations, service of recommendations, decisions and orders
R14-3-111. Rehearings in cases relating to the regulation of public service corporations
R14-3-112. Rehearings in cases relating to the regulation of securities and corporations
R14-3-113. Unauthorized communications

ARTICLE 2. RULES OF PRACTICE AND PROCEDURE BEFORE POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

Section
R14-3-201. Sessions of the committee
R14-3-202. Parties
R14-3-203. Applications
R14-3-204. Intervention
R14-3-205. Notice and service requirements
R14-3-206. Record of proceeding
R14-3-207. Amendment of documents
R14-3-208. Hearings
R14-3-209. Extensions of time
R14-3-210. Witnesses and subpoenas
R14-3-211. Documentary evidence
R14-3-212. Transcript of testimony
R14-3-213. Decision of committee and certificate
R14-3-214. Review of committee decision
R14-3-215. Computation of time -- holidays
R14-3-216. Application of Rules of Civil Procedure
R14-3-217. Office and address
R14-3-218. Filing fees
R14-3-219. Form of application for certificate of environmental compatibility (pursuant to A.R.S. §§ 40-360.03 and 40-360.06)

ARTICLE 1. RULES OF PRACTICE AND PROCEDURE BEFORE THE CORPORATION COMMISSION

The Arizona Corporation Commission, by virtue of the powers in it vested under the Constitution and the laws of the state of Arizona, does hereby promulgate these Rules of Practice and Procedure.

The Commission hereby repeals administrative rules and regulations, Title 14, Chapter 3, Article 1, also known as General Order 255 and does hereby adopt a new Title 14, Chapter 3, Article 1.

The revised Rules of Practice and Procedure adopted herein shall be effective for all proceedings held by the Commission subsequent to January 1, 1976.

R14-3-101. Scope and construction of rules, special orders

A. Procedure governed. Except as may be otherwise directed by the Commission, and when not in conflict with law or the regulations or orders of this Commission, these Rules of Practice and Procedure shall govern in all cases before the Corporation Commission including but not limited to those arising out of Article XV of the Arizona Constitution, or Titles 10, 40, or 44 of the Arizona Revised Statutes. In all cases in which procedure is set forth neither by law, nor by these rules, nor by regulations or orders of the Commission, the Rules of Civil Procedure for the Superior Court of Arizona as established by the Supreme Court of the state of Arizona shall govern. Notwithstanding any of the above, neither these rules nor the Rules of Civil Procedure shall apply to any investigation by the Commission, any of its divisions or its staff.

B. Liberal construction -- waiver. These rules shall be liberally construed to secure just and speedy determination of all matters presented to the Commission. If good cause appears, the Commission or the presiding officer may waive application of these rules when not in conflict with law and does not affect the substantial interests of the parties.

C. Rate hearing procedure for gas, electric, telephone, telegraph, water and sewer corporations. Special orders of the Commission shall govern over these rules in matters regarding notice, intervention, service of pleadings and exhibits, and discovery for gas, electric, telephone, telegraph, water and sewer corporation rate hearing.

Historical Note

Former Section R14-3-01 repealed, new Section R14-3-01 adopted effective December 17, 1975 (Supp. 75-2). Amended effective March 13, 1979 (Supp. 79-2).

R14-3-102. Filing, fees, communications, hearing calendar and general provisions

A. Offices. The principal office of the Commission is in Phoenix, Arizona. A branch office of the Commission is maintained in Tucson, Arizona.

B. Place of filing. Formal documents and other papers required to be filed with the Commission shall be addressed to the Commission and not to an individual, may be transmitted by mail or express, or otherwise delivered, but must be received for filing at its offices in Phoenix or Tucson, Arizona, within the time limit, if any, for such filing. All formal documents and other papers filed with the Commission shall be limited in size to 8 1/2 x 11 inches.

C. Correspondence and communication. Communications should contain the name and address of the correspondent and the appropriate certificate number, permit number, docket number, title of proceeding and case number, if any, pertaining to the subject of the communication.

D. Docket numbers and title. Each matter coming before the Commission shall be given a docket number and title, descriptive of the subject matter.

E. Fees and remittances. Fees and remittances to the Commission shall be by money order, bank draft or check payable to "Arizona Corporation Commission". Remittances in currency or coin mailed to the Commission are wholly at the risk of the

remitter and the Commission assumes no responsibility for loss thereof. Postage stamps will not be accepted.

F. Hearing calendar. A hearing calendar will be maintained by the Executive Secretary of the Commission, and hearing assignments shall be noted upon such calendar. A copy of the hearing calendar shall be maintained in the Tucson office of the Commission and both such calendars shall be open for public inspection during regular business hours of the Commission.

G. Presiding officer. Within the context of these rules "Presiding Officer" shall mean a Commissioner or Hearing Officer conducting a hearing.

Historical Note

Former Section R14-3-102 repealed, new Section R14-3-102 adopted effective December 17, 1975 (Supp. 75-2). Amended subsection (B) effective July 8, 1980 (Supp. 80-4).

R14-3-103. Parties

A. Classification of parties. Parties to any proceeding before the Commission shall consist of and shall be designated "Applicant", "Complainant", "Respondent", "Intervenor", or "Protestant" according to the nature of the proceedings and the relationship of the party thereto.

B. Applicant. Any person requesting a certificate, permit, other authority or any affirmative relief other than a complainant shall be designated "Applicant".

C. Complainant. Any person complaining pursuant to any statute or any rule or order of the Commission shall be designated "Complainant".

D. Respondent. Any person against whom a complaint or petition is filed or any person who may be subject to having any schedule, rate or tariff forfeited or revoked by the Commission, shall be designated as "Respondent".

E. Intervenor. Any person permitted to intervene in any proceeding shall be designated "Intervenor".

F. Protestant. Any person permitted to protest in any proceeding shall be designated "Protestant".

G. Two or more complainants. Two or more complainants may join in one complaint if their respective complaints are against the same respondent or respondents and involve substantially the same matter or thing and a like state of facts.

H. Multiple respondents. If complaint be made of tariffs, rates, fares, charges, regulations or practices involving more than one public service corporation, all such public service corporations shall be made respondents.

I. Receivers and trustees. The receiver or trustee of any person subject to the orders of this Commission shall be a party in any proceeding affecting such person and shall be designated as herein provided.

Historical Note

Former Section R14-3-103 repealed, new Section R14-3-103 adopted effective December 17, 1975 (Supp. 75-2).

R14-3-104. Appearances, rights of parties, representation by attorney, conduct and former employees

A. Rights of parties. At a hearing a party shall be entitled to enter an appearance, to introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceeding.

B. Taking of appearances. Parties shall enter their appearances at the beginning of a hearing or at any time as may be designated by the presiding officer or by order of the Commission by giving their names and addresses for the record and stating their position or interest.

C. Designation of classes, parties. When two or more parties have substantially like interests and positions, the presiding officer may declare them a class of parties present and appearing for purposes of the hearing. The members of a class shall designate one of their number to be representative of a class in the hearing. If the members of a class cannot agree on a representative, the presiding officer may designate one of them to be representative of the class.

The presiding officer may deem participation by other members of the same class to be cumulative and may restrict its presentation accordingly. More than one class may be established for a hearing.

D. Notice. Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, the service shall be made upon the attorney unless service upon the party is ordered by the Commission. Service upon the attorney or upon a party shall be made by delivering or mailing a copy to him at his last known address, unless the Commission otherwise specifies.

E. Withdrawal of attorney. The Commission or presiding officer may permit the withdrawal of an attorney from any proceeding upon written application and good cause shown under such terms, conditions, and notices to clients and other parties as the Commission or presiding officer may direct. Oral application for withdrawal may be made during any open proceeding which is being reported.

F. Conduct required

1. All persons appearing before the Commission or a presiding officer in any proceeding shall conform to the conduct expected in the Superior Court of the state of Arizona.
2. Any alleged inappropriate conduct before a Commissioner or a Hearing Officer shall be referred to the Commission for appropriate action.
3. Contemptuous conduct by any person appearing at a hearing shall be grounds for his exclusion by the presiding officer from the hearing.
4. If the Commission finds that any person has committed any improper or contemptuous conduct in any hearing before the Commission or a presiding officer, the Commission may impose such penalties provided by law that it deems appropriate.

G. Former employees. No former employee of the Commission shall appear at any time after severing his employment with the Commission as a witness on behalf of other parties in a formal proceeding wherein he previously took an active part in the investigation or preparation as a representative of the Commission, except with the written permission of the Commission.

Historical Note

Former Section R14-3-104 repealed, new Section R14-3-104 adopted effective December 17, 1975 (Supp. 75-2). Amended effective May 8, 1981 (Supp. 81-3).

R14-3-105. Intervention as party and other appearances

A. Intervention. Persons, other than the original parties to the proceedings, who are directly and substantially affected by the proceedings, shall secure an order from the Commission or presiding officer granting leave to intervene before being allowed to participate.

B. Application. An application for leave to intervene shall be in writing and must state the basis for the application. Such application shall be served and filed by an applicant at least five days before the proceeding is called for hearing. No application for leave to intervene shall be granted where by so doing the issues theretofore presented will be unduly broadened,

except upon leave of the Commission first had and received. Upon the granting of an application to intervene by the Commission or the presiding officer, the intervening person shall thereafter be designated an "Intervenor".

C. Other appearances. Notwithstanding the provisions of subsections R14-3-105(A) and R14-3-105(B), any consumer or prospective consumer may appear at any proceeding and make a statement on his own behalf, at a time designated by the Commission or presiding officer. A person so appearing shall not be deemed a party to the proceedings.

When two or more interested persons under this rule have substantially like interests and positions, the presiding officer may declare them a class of interested persons for purposes of the hearing. The members of the class shall designate to be spokesman for the class one of their number, or his attorney, or such greater of their number, or attorneys, as the presiding officer shall determine. More than one class may be established for a hearing.

Historical Note

Former Section R14-3-105 repealed, new Section R14-3-105 adopted effective December 17, 1975 (Supp. 75-2).

R14-3-106. Formal documents, requirement and timeliness, motions, informal complaints and protests

A. Formal documents. Formal documents include applications, complaints, answers, motions, replies and protests.

B. Verification. Applications, complaints and answers need not be verified unless required by law.

C. Form. Formal documents shall be typewritten, reproduced or printed, properly captioned and signed by an appropriate authorized individual, officer or attorney. Formal documents shall state the name and address of each party thereto and shall clearly identify the proceedings by docket number and title.

D. Defective filing. No case need be set for hearing wherein any data required by statute or by General Order of this Commission has not been furnished by applicant.

E. Amendments to formal documents. The Commission or presiding officer, in his discretion, may allow any formal document to be amended or corrected. Formal documents will be liberally construed and defects which do not affect substantial rights of the parties will be disregarded. The Commission or presiding officer shall cause parties or formal documents to be redesignated whenever necessary in accordance with these rules.

F. Applications. A request for a right, authority or other affirmative relief (other than by complaint or counterclaim) or a request for leave to intervene shall be designated an "Application". The application shall set forth the name and post office address of the applicant and shall contain the facts upon which the application is based, with such exhibits as may be required or deemed appropriate by the applicant.

G. Application for rehearing. A request for rehearing, filed either under R14-3-111 or R14-3-112, shall be designated as an "Application for Rehearing". Applications filed under R14-3-111 shall be governed by the provisions of that rule and A.R.S. § 40-253. Applications filed under R14-3-112 shall be governed by that rule.

H. Answers. Answers to complaints are required and must be filed within 20 days after the date on which the complaint is served by the Commission, unless otherwise ordered by the Commission. All answers shall be full and complete and shall admit or deny specifically and in detail each allegation of the complaint to which such answer is directed. The answer shall include a motion to dismiss if a party desires to challenge the sufficiency of the complaint.

I. Protests. Unless otherwise provided by special order of the Commission, a person who may be adversely affected by an application shall have the right to file a written protest with the Commission or be heard orally as a protestant at a public hearing.

J. Response to application when required by Commission. After the filing of an Application, the Commission in its discretion may make any public service corporation or other person subject to its jurisdiction, a party to the proceedings and may require such person or corporation to respond to the allegations of the Application.

K. Motions. Motions shall conform insofar as practicable with the Rules of Civil Procedure for the Superior Court of the state of Arizona.

L. Formal complaints. Complaints shall be in writing and shall contain the name and address of the complainant, the name of the person or company against whom complaint is made, a complete statement of the grounds for said complaint, indicating the date or dates of the commission or omission of the acts or things complained of, and the nature of the relief sought by the complainant. The complaint shall be signed by the complainant, or by one of the complainants if there be more than one, or by an officer of the complainant if the complainant be a corporation, association or other organization, or for the complainant by an agent or attorney. If the complainant has an attorney, his name and address shall appear in the complaint and he shall sign the complaint.

M. Informal complaints

1. Informal complaints may be made by letter or other writing. No particular form is required; however, the writing must clearly state the matters complained of and must satisfactorily identify the party complained against. It need not be verified but must be signed by the complainant or attorney and show the address of the complainant and his attorney if he has one.
2. Informal complaints may be handled by the Commission or staff, by correspondence or otherwise, with the parties affected in an endeavor to bring about a speedy adjustment of the complaint without formal hearing. Informal procedure is recommended in all cases except those which clearly cannot be adjusted informally. Proceedings on informal complaints will be conducted without prejudice to the complainant's right to file and prosecute a formal complaint if the matter cannot be properly adjusted informally, in which event the proceeding on the informal docket will be discontinued. A formal complaint must thereafter be filed if a hearing is desired.

Historical Note

Former Section R14-3-106 repealed, new Section R14-3-106 adopted effective December 17, 1975 (Supp. 75-2). Amended effective March 13, 1979 (Supp. 79-2).

R14-3-107. Filing and service of formal documents

A. Formal documents. An original and three legible copies of all formal documents shall be filed with the Commission. One copy shall be served on any person who is already a party to the proceeding. In addition, the Commission may direct that a copy of any such documents shall be made available by the party filing same to any person whom the Commission may specify.

B. Manner of service. Except as provided in R14-3-103(B) or unless otherwise ordered by the Commission or otherwise provided by law, all notices, orders to show cause, opinions and orders required to be served by the Commission and all documents filed by any party may be served by mail, and service thereof shall be deemed complete when a true copy of such

paper or document, properly addressed and stamped, is deposited in the United States mail with first class postage prepaid.

C. Proof of service. There shall appear on all documents required to be served by a party an acknowledgement of service or the following certificate:

I hereby certify that I have this day served the foregoing documents on all parties of record in this proceeding (by delivering a copy thereof in person to _____,)

(By mailing a copy thereof, properly addressed with first class postage prepaid to _____ _____).

Dated at _____, Arizona, this ____ day of _____, 19____

_____

(Signature)

Historical Note

Former Section R14-3-107 repealed, new Section R14-3-107 adopted effective December 17, 1975 (Supp. 75-2).

R14-3-108. Prehearing conference

A. Procedure. The Commission or presiding officer upon its own motion or upon motion of any party and upon written notice to all parties of record, may direct that a prehearing conference shall be held for the purposes of formulating or simplifying the issues, obtaining admissions of fact and of documents which will avoid unnecessary proof, arranging for the exchange of proposed exhibits or prepared expert testimony, limitation of number of witnesses and consolidation of the examination of witnesses, procedure at the hearing and such other matters which may expedite orderly conduct and disposition of the proceedings or settlements thereof.

B. Action taken. The action taken at such conference and the agreements made by the parties concerned shall be made a part of the record and, if approved by the parties, such action will control the course of subsequent proceedings, unless modified at the hearing by the presiding officer.

C. Recessing hearing for conference. In any proceeding the presiding officer, in his discretion, may call all parties together for a conference prior to the taking of testimony, or may recess the hearing for such conference, with the view of carrying out the purpose of this rule. The presiding officer shall state on the record the results of such conference.

Historical Note

Former Section R14-3-108 repealed, new Section R14-3-108 adopted effective December 17, 1975 (Supp. 75-2).

R14-3-109. Hearings, prehearings, conduct of hearings, procedure, evidence, subpoenas, briefs, arguments, official notice and rulings

A. Procedure. Hearings will be held before one or more Commissioners, one or more Hearing Officers, or any combination thereof. Notice of the place, date and hour of the hearing will be served by the Commission at least ten days before the time set therefor, unless otherwise provided by law or as ordered by the Commission.

B. Publication of notice of hearings. Publication of notice of hearings shall be as required by law or as ordered by the Commission in a particular proceeding. If publication is required, affidavit of publication shall be filed with the Arizona Corporation Commission at or prior to the time of initial hearing.

C. Dismissal of proceeding. The Commission may dismiss the application or complaint with or without prejudice or may recess said hearing for a further period to be set by the Commission. A single Commissioner or a Hearing Officer may adjourn or recess a hearing at any time to submit a recommendation to the Commission to dismiss the proceeding, or may recess said hearing for a further period to be set by the Commission.

D. Preliminary procedure. The presiding officer shall call the proceeding for hearing and proceed to take the appearances and act upon any pending motions or applications. The parties may then make opening statements if they desire.

E. Conduct at hearings. All parties to hearings, their counsel and spectators will conduct themselves in a respectful manner. Smoking shall not be permitted at formal hearings of the Commission.

F. Testimony under oath. All testimony to be considered by the Commission in formal hearings shall be under oath, except matters of which judicial notice is taken or entered by stipulation.

G. Order of procedure. Applicants or complainants (each of whom must carry the burden of proof) shall present their evidence and then such parties as may be opposing the application or complaint shall submit their evidence. The presiding officer shall determine the order in which parties shall introduce their evidence. Intervenors shall, insofar as possible, follow the party with respect to whom their interests are most closely identified. If the intervention is not in support of either original party, the presiding officer shall designate at which stage such intervenors shall be heard. Evidence will ordinarily be received in the following order unless otherwise directed by the presiding officer:

Upon applications
- Applicant
- Intervenors or protestants
- Commission staff

Upon formal complaints
- Complainant
- Respondent
- Commission staff
- Intervenors

Upon complaints by Commission
- Commission staff
- Respondent
- Intervenors

Examination of witnesses shall proceed as follows:
- Direct examination by applicant
- Cross-examination by each protestant or intervenor
- Cross-examination by staff
- Examination by presiding officer of Commissioners
- Re-direct examination by applicant
- Re-cross examination as permitted by the presiding officer
- Examination by presiding officer or Commissioners
- Opening and closing statements may be allowed

Once a party has rested his case he shall not be allowed to introduce further evidence without consent of the presiding officer.

H. Consolidation. The Commission or the presiding officer may consolidate two or more proceedings in one hearing when it appears that the issues are substantially the same and that the rights of the parties will not be prejudiced by such procedure. At such consolidated hearing the presiding officer shall determine the order in which all the parties shall introduce their evidence and which party or parties shall open and close.

I. Limiting number of witnesses. To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue.

J. Stipulations. With the approval of the presiding officer, the parties may stipulate as to any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral

statement shown upon the record and such stipulation shall be binding upon all parties thereto. The Commission or presiding officer, may, however, require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

K. Rules of evidence. In conducting any investigation, inquiry or hearing, neither the Commission nor any officer or employee thereof shall be bound by the technical rules of evidence, and no informality in any proceeding or in the manner of taking of testimony shall invalidate any order, decision, rule or regulation made, approved or confirmed by the Commission. Rules of evidence before the Superior Court of the state of Arizona will be generally followed but may be relaxed in the discretion of the Commission or presiding officer when deviation from the technical rules of evidence will aid in ascertaining the facts.

L. Documentary evidence. Unless otherwise ordered by the Commission or presiding officer and if practicable, exhibits should be limited in size when folded to 8 1/2 x 11 inches. A copy of each documentary exhibit shall be furnished to each party of record present, and three additional copies shall be furnished for the use of the Commission unless the Commission or presiding officer otherwise directs. Where relevant and material matter offered in evidence is embraced in a written or printed statement, book or document of any kind containing other matter not material or relevant and not intended to be put in evidence, such statement, book or document in whole shall not be received or allowed to be filed, but counsel and other parties offering the same shall present in convenient and proper form for filing a copy of such material and relevant matter, or at the discretion of the presiding officer, read the same into the record, and that only shall be received and allowed to be filed as evidence and made a part of the record. Whenever practicable, or when ordered by the Commission or presiding officer, the parties shall interchange copies of exhibits before or at the hearing. Any documentary evidence offered, whether in the form of exhibit or introduced by reference, shall be subject to appropriate and timely objection.

M. Prepared testimony. The Commission may order the prefiling and service of testimony and exhibits. Before any prepared testimony is read, unless excused by the presiding officer, the witness shall deliver copies thereof to the presiding officer, the court reporter, and all counsel or parties. Admissibility shall be subject to the rules governing oral testimony. If the presiding officer deems that substantial saving in time will result, he may direct prepared testimony be copied into the record without reading.

N. Resolutions. Resolutions properly authenticated by the governing bodies of a governmental entity will be received in evidence if offered at the hearing by the president, secretary, or other proper person. Such resolutions shall be received subject to rebuttal by adversely affected parties as to either the authenticity of the resolution or the circumstances surrounding its procurement. Recitals of fact contained in resolutions shall not be deemed proof of those facts, and such resolutions shall only be received for the limited purpose of showing the expression of the official action of the resolving body with respect to the matter under consideration in the proceeding.

O. Subpoenas. Subpoenas requiring the attendance of a witness from any place in the state of Arizona to any designated place of hearing for the purpose of taking testimony of such witnesses orally before the Commission may be issued upon application in writing. A subpoena may also command the person to whom it is directed to produce books, papers, documents or tangible things designated therein. The application for such subpoenas must specify, as clearly as possible, the books, waybills, papers, accounts or other documents desired. The Commission or presiding officer, upon motion made promptly and, in any event, at or before the time specified in the subpoena for compliance therewith may:

1. Quash the subpoena if it is unreasonable or oppressive, or
2. Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued, of the reasonable cost of producing the books, waybills, papers, accounts or other documents desired.

Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the state of Arizona, such fees to be paid by the party at whose instance the witness is subpoenaed.

If service of subpoena is made by an officer of the state or his deputy, such service shall be evidenced by his return thereon. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, shall be returned forthwith to the Commission.

P. Depositions. The Commission, a Commissioner, or any party to any proceeding before it may cause the depositions of witnesses to be taken in the manner prescribed by law and of the civil procedure for the Superior Court of the state of Arizona.

Q. Continuance. Either prior to hearing or during a hearing, and on a showing of good cause, a matter may be continued by the Commission or the presiding officer for submission of further or additional evidence or for any other proper purpose.

R. Briefs. In any hearing, briefs may be ordered by the Commission or presiding officer to be filed within such time as may be allowed. Four copies of briefs shall be filed with the Commission and shall be accompanied by a proof of service showing service on other parties of record.

S. Oral argument. Following the filing of briefs or upon contested motions, the presiding officer may set the matter for oral argument.

T. Official notice. The presiding officer may take official notice of the following matters:

1. Rules, regulations, official reports, decisions and orders of the Commission and any regulatory agency of the state of Arizona.
2. Contents of decisions, orders, certificates and permits issued by the Commission.
3. Matters of common knowledge and technical or scientific facts of established character.
4. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference; provided, however, that proper and definite reference to such document shall be made by the party offering the same and that the same is published and generally circulated so that an opportunity shall be given to all of the parties of interest at the hearing to examine the same and present rebuttal evidence.
5. Such other matters as may be judicially noticed by the Courts of the state of Arizona.

U. Reliance on other records in Commission's files. When a party desires to offer in evidence any portion of the testimony, exhibits, order, decision or record in any other proceeding before the Commission, such portion shall be plainly designated in the stenographic record and, if admitted, shall be deemed to be a part of the testimony in the immediate proceeding without physical production and marking for identification.

V. Open hearings. All hearings conducted pursuant to these rules shall be open to the public.

W. Transcripts. The Commission will cause a stenographic record to be made of all public hearings. Parties desiring copies of such transcript may purchase same from the court reporter.

X. Objections and rulings. When objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly. The presiding officer shall rule on the admissibility of all evidence.

Y. Offer of proof. An offer of proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained.

Z. Documents in the docket file as evidence for the record. The docket file is a public record and, as such, is available and open to inspection to all. Any document in such file shall not be considered unless same is offered and accepted in evidence. Such document need not be produced as an exhibit but may be received in evidence by reference, provided that the particular portions of such document are specifically identified and are competent, relative and material. If testimony in proceedings other than the one being heard is offered in evidence, a copy thereof shall be presented as an exhibit, unless otherwise ordered by the presiding officer.

Historical Note

Former Section R14-3-109 repealed, new Section R14-3-109 adopted effective December 17, 1975 (Supp. 75-2). Amended subsection (L) effective July 8, 1980 (Supp. 80-4).

R14-3-110. Hearing officer recommendations, service of recommendations, decision and orders

A. Decisions. A proceeding is submitted for decision by the Commission after taking of evidence, the filing of briefs or the presentation of oral argument as may have been prescribed by the presiding officer.

B. Recommendations of Hearing Officers. In a proceeding heard by a Hearing Officer, the Hearing Officer shall prepare his recommendation which may be in the form of an opinion and order, unless otherwise directed by the Commissioners. Such recommendation by the Hearing Officer shall become part of the Docket. Upon prior written request by a party to the Executive Secretary, a copy of such recommendation shall be sent to such party by the Executive Secretary. Such proposed order shall include recommended findings, conclusions, and order, which may be narrative form at the discretion of the Hearing Officer.

Any party to the proceeding may serve and file five copies of exceptions to the proposed order within ten days after service thereof. There shall be no reply to exceptions and the proposed order and any exceptions filed shall be submitted to the Commission for its consideration.

Any party to a proceeding may offer at the conclusion of the hearing, a proposed order, with Findings of Fact and Conclusions of Law for consideration by the Commission, or Hearing Officer.

C. Service of orders. Except as otherwise provided by law, conformed copies of orders of the Commission shall be served by mailing copies thereof to the parties of record or their representatives or by personal service thereof.

Historical Note

Former Section R14-3-110 repealed, new Section R14-3-110 adopted effective December 17, 1975 (Supp. 75-2).

R14-3-111. Rehearings in cases relating to the regulation of public service corporations

All applications filed under A.R.S. § 40-253 for further hearings, rehearings, re-arguments, reconsideration or modification of orders issued in proceedings arising out of Article XV of the Constitution or Title 40 of Arizona Revised Statutes with respect to the Commission's regulation of public service corporations shall be filed within 20 days from the date of the order of the Commission.

Historical Note

Former Section R14-3-111 repealed, new Section R14-3-111 adopted effective December 17, 1975 (Supp. 75-2). Amended effective March 13, 1979 (Supp. 79-2).

R14-3-112. Rehearings in cases relating to the regulation of securities and corporations

A. Except as provided in subsection (G), any party in a contested case before the Commission arising out of Title 10 or 44 of Arizona Revised Statutes, who is aggrieved by a decision rendered in such case may file with the Commission, not later than ten days after service of the decision, a written application for rehearing or review of the decision specifying the particular grounds therefor. For purposes of this subsection, a decision shall be deemed to have been served when personally delivered or mailed by certified mail to the party at his last known residence or place of business.

B. An application for rehearing under this rule may be amended at any time before it is ruled upon by the Commission. A response may be filed within ten days after service of such application or amended application by any other party or the staff. The Commission may require the filing of written briefs upon the issues raised in the application and may provide for oral argument.

C. A rehearing of the decision may be granted for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the proceedings before the Commission or any order or abuse of discretion, whereby the moving party was deprived of a fair hearing;
2. Misconduct of the Commission, its staff or its hearing officer or the prevailing party;
3. Accident or surprise which could not have been prevented by ordinary prudence;
4. Newly discovered material evidence which could not with reasonable diligence have been discovered and produced at the original hearing;
5. Excessive or insufficient penalties;
6. Error in the admission or rejection of evidence or other errors of law occurring at the hearing;
7. That the decision is not justified by the evidence or is contrary to law.

D. The Commission may affirm or modify the decision or grant a rehearing as to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). An order granting a rehearing shall specify with particularity the ground or grounds on which the rehearing is granted, and the rehearing shall cover only those matters so specified.

E. The Commission, within the time for filing an application for rehearing under this rule, may on its own initiative order a rehearing or review of its decision for any reason for which it might have granted a rehearing on application of a party. After giving the parties notice and an opportunity to be heard on the matter, the Commission may grant an application for rehearing, timely served, for a reason not stated in the application. In either case, the order granting such a rehearing shall specify the ground therefor.

F. When an application for rehearing is based upon affidavits, they shall be served with the application. An opposing party or the staff may within ten days after such service serve opposing affidavits.

G. If in a particular decision the Commission makes specific findings that the immediate effectiveness of such decision is necessary for the immediate preservation of the public peace,

health and safety and that a rehearing or review of the decision is impracticable, unnecessary or contrary to the public interest, the decision may be issued as a final decision without an opportunity for a rehearing or review. If a decision is issued as a final decision without an opportunity for rehearing, any application for judicial review of the decision shall be made within the time limits permitted for applications for judicial review of the Commission's final decision.

Historical Note

Former Section R14-3-112 repealed effective December 17, 1975 (Supp. 75-2). New Section R14-3-112 adopted effective March 13, 1979 (Supp. 79-2).

R14-3-113. Unauthorized communications

A. Purpose. It is the purpose of this rule to assist the members of the Arizona Corporation Commission and its employees in avoiding the possibility of prejudice, real or apparent, to the public interest in proceedings before the Commission.

B. Application. The provisions of this rule apply from the time a contested matter is set for public hearing. The provisions of this rule do not apply to rule making proceedings.

C. Prohibitions.

1. No person shall make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding to a commissioner or commission employee involved in the decision-making process for that proceeding.
2. No commissioner or commission employee involved in the decision-making process of a contested proceeding shall request, entertain, or consider an unauthorized communication concerning the merits of the proceeding.
3. The provisions of this rule shall not prohibit:
   a. Communications regarding procedural matters;
   b. Communications regarding any other proceedings;
   c. Intra-agency or non-party communications regarding purely technical and legal matters;
   d. Comments from the general public;
   e. Communications among hearing officers, non-party staff and commissioners.

D. Remedy.

1. A commissioner or commission employee who receives an oral or written offer of any communication prohibited by this rule must decline to receive such communication and will explain that the matter is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient will advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made, will be prepared, and the statement will be filed in the public record of the case or proceeding.
2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.
3. If a party to a contested proceeding makes an unauthorized communication, the party may be required to show cause why its claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

Historical Note

Adopted effective January 3, 1986 (Supp. 86-1).

ARTICLE 2. RULES OF PRACTICE AND PROCEDURE BEFORE POWER PLANT AND TRANSMISSION LINE SITING COMMITTEE

R14-3-201. Sessions of the committee

A. Sessions of the Committee shall be held at such times and places as the business of the Committee shall require and after notice as provided in these Rules of Practice and Procedure.

B. Hearings on applications for certificates of environmental compatibility, in the discretion of the chairman but subject to overruling by a majority of the Committee within five days of notice of his decision, shall be conducted by the Full Committee or by a hearing officer qualified under A.R.S. § 40-360.04(B). There shall be no quorum requirement in the event a hearing is conducted by the full Committee.

C. Hearings shall be presided over by a Presiding Officer who shall be either:

1. The chairman or his designee, in the event of a hearing conducted by the full Committee, or
2. The hearing officer.

D. For purposes of these rules, the chairman or his designee shall act as Presiding Officer with respect to each application unless and until a hearing officer is designated in accordance with subsection (B) hereof.

E. The powers and duties of the Presiding Officer, in addition to those set forth in these Rules of Practice and Procedure, shall include the authority to:

1. Administer oaths and affirmations.
2. Rule upon offers of proof and receive relevant evidence.
3. Take or cause depositions to be taken.
4. Regulate the course of a hearing.
5. Hold conferences, prior to the hearings at which time each party shall set forth the issues it wishes to present at the hearing, and during the hearing for the settlement of the issues, and for such other purposes as the Presiding Officer deems appropriate.
6. Dispose of procedural requests or similar matters.
7. Examine witnesses.
8. Set the dates for the submission of transcript corrections.
9. Mail to each member of the Committee, within five days after the transcript is prepared and delivered, a certified copy of the record of the hearings, including the transcript and reproducible exhibits.

Effective 2-70.

Historical Note

Former General Order U-51, Article I.

R14-3-202. Parties

A. Parties to the proceedings before the Committee shall be designated "applicants" or "intervenors".

1. Any person seeking a certificate shall be designated "applicant".
2. Any other person having an interest in a proceeding before the Committee shall be designated "intervenor".

B. The Presiding Officer by notice prior to or during the hearing may require the consolidation of the representation of nongovernmental parties having similar interests.

Effective 2-70.

Historical Note

Former General Order U-51, Article II.

R14-3-203. Applications

A. Twenty-five copies of each application for a certificate of environmental compatibility and supporting exhibits and accompanying information shall be filed with the Director of

Utilities of the Commission, plus additional copies as may be subsequently requested by the Director of Utilities.

B. The application shall be in the form prescribed in R14-3-219 of these rules and shall be accompanied by information with respect to the proposed type of facilities and description of the site, including the areas of jurisdiction affected and the estimated cost of the proposed facilities on the site. The application shall be delivered by the Director of Utilities to the chairman of the Committee within five days after the date of filing and shall be mailed to each member of the Committee within ten days of the date of filing.

C. The "description of the site" referred to in R14-3-203(B) hereof shall be reflected on a map accompanying the application and may be general in nature. It shall not be necessary to include either results of survey or a metes and bounds description.

D. An application may be filed in the alternative in situations where the applicant is in doubt as to whether an application is required by law. In such instances the application shall request a disclaimer of jurisdiction from the Committee or, in the alternative, a certificate of environmental compatibility.

E. A copy of the application shall be made available upon request to the Director of Utilities to persons complying with the requirements of R14-3-204 and shall in any event be available for inspection as provided in R14-3-206.

F. Where applications have been filed for certificates of environmental compatibility by more than one utility for transmission lines to be constructed in the same right-of-way, the Presiding Officer may require the consolidation of hearings on said application.

Effective 2-70.

Historical Note

Former General Order U-51, Article III.

R14-3-204. Intervention

A. Any person entitled by A.R.S. § 40-360.05(A) or (C) to become a party to a certification proceeding shall file with the Director of Utilities 25 copies of a notice of intent to be a party, not less than ten days before the date set for the hearing. The notice of intent shall recite the interest of the person in the proceedings.

B. Any person entitled by A.R.S. § 40-360.05(B) to make a limited appearance in a certification proceeding shall file with the Director of Utilities three copies of a statement in writing, not less than five days before the date set for the hearing, which statement shall set forth its interest in the proceedings.

C. Persons making a limited appearance pursuant to A.R.S. § 40-360.05(B) shall not be parties for the purposes of these proceedings.

D. The Presiding Officer may, upon his own motion and notice to all parties to the proceeding ten days prior to the date set for hearing, designate, as he deems appropriate, additional persons as parties to the proceeding. The notice shall set forth the reasons for making such designation.

E. Upon the filing of a notice of intent or statement in writing provided for in R14-3-204, the Director of Utilities shall serve each member of the Committee with a copy thereof in the manner provided in R14-3-203(B). A copy of the notice or statement shall be made available upon request to each party to the proceeding.

F. No notice of intent to be a party, or statement, shall be accepted for filing by the Director of Utilities after expiration of the time periods set forth in R14-3-204.

G. When it becomes apparent to the Presiding Officer that an issue exists with respect to whether an ordinance, master plan or regulation of the state, a county or an incorporated city or town is unreasonably restrictive and compliance therewith is not feasible in view of technology available, he shall promptly serve written notice of such fact upon the chief executive officer of the area of jurisdiction affected and shall inform all other parties to the proceedings. Notwithstanding any provision of law or these Rules of Practice and Procedure to the contrary, the Presiding Officer shall make such area of jurisdiction a party to the proceedings upon request filed within ten days of said notice, and upon becoming a party, evidence on such issue shall be taken during the course of the hearing. If the hearing is otherwise completed, it shall be continued until the time for such appearance expires or evidence is taken whichever first occurs.

Effective 2-70.

Historical Note

Former General Order U-51, Article IV.

R14-3-205. Notice and service requirements

A. Notice of hearings, notice of intent to be a party and statement of intent to make an appearance shall be served by certified mail by the Presiding Officer. Copies of each notice shall be furnished in sufficient number as determined by the Presiding Officer to permit the service thereof upon all parties known at that time.

B. Except as provided in subsection (A) hereof, all other papers, except depositions, in proceedings pending before the Committee, must, when filed or tendered to the Committee, show service thereof upon all parties to the proceeding. Such service shall be made by delivering in person or by mailing, properly addressed with postage prepaid, one copy of the instrument served, to each party to the proceeding.

C. When any party has appeared by an attorney or agent, service upon such attorney or agent shall be deemed service upon such party.

D. Any notice to be directed to members of the Committee shall be in writing and shall be delivered by regular mail and by certified mail, return receipt requested. Unless otherwise specified in these Rules of Practice and Procedure, any such notice shall be deposited in the mails not less than ten days before the event therein described.

Effective 2-70.

Historical Note

Former General Order U-51, Article V.

R14-3-206. Record of proceeding

The Director of Utilities of the Corporation Commission shall maintain a complete and separate record containing all documents and exhibits filed in connection with each application. Such record shall be made available upon request to the public during regular business hours. A copy of each application shall also be maintained in the Corporation Commission's Tucson office for public inspection during regular business hours.

Effective 2-70.

Historical Note

Former General Order U-51, Article VI.

R14-3-207. Amendment of documents

A. Any document provided for herein to be filed may be amended only after a showing of good cause and at the discretion of the Presiding Officer.

B. If the Presiding Officer determines an applicant's amendment of an application or accompanying information constitutes a substantial deviation from the public notice given pursuant to R14-3-208(A), within three days of his decision to allow amendment he shall notify the members of the Committee, and subject to being overruled by a majority of the Committee

within ten days of notice of his decision, further hearings shall be held thereon after public notice, as provided in R14-3-208(A), in which event the 180-day period specified in R14-3-213(A) shall be deemed to run from the date of such public notice.

Effective 2-70.

Historical Note

Former General Order U-51, Article VII.

R14-3-208. Hearings

A. The Presiding Officer shall, within ten days after receiving an application, provide:

1. Public notice as to the time and place of a hearing on the application.
2. Notice by certified mail to the affected areas of jurisdiction at least ten days prior to the date they are to respond by requesting to become a party.
3. Notice to members of the Committee as provided in R14-3-205(D).

B. Hearings shall be held not less than 30 or more than 60 days after the date notice is first given and shall be held at the discretion of the Presiding Officer:

1. In the general area within which the proposed plant or transmission line is to be located; or
2. At the State Capitol at Phoenix.

C. "Public notice", as used herein, shall mean two publications in a daily or weekly newspaper of general circulation within the general area in which the proposed plant or transmission line is proposed to be located. Such notice shall contain a general description of the substance and purpose of such hearing. If a transmission line is proposed to be located in more than one county, publication shall be made in each county wherein the line is proposed to be located.

D. The Presiding Officer shall receive under oath and before a court reporter the material, nonrepetitive evidence, and comments of the parties to the proceedings and any rebuttal evidence of the applicant.

E. At hearings upon application for a certificate, the applicant shall open and close. The order of presentation herein prescribed shall be followed except as the Presiding Officer may otherwise prescribe. At hearings of several proceedings upon a consolidation, the Presiding Officer shall designate the procedure to be followed. Intervenors shall follow the applicant in whose behalf or in opposition to whom the intervention is made.

F. Individual parties may appear at the hearing on their own behalf. All other persons who are parties shall appear only by a licensed attorney.

G. If the Committee, subsequent to the hearing, proposes to condition issuance of the certificate on the use of a site other than the site or alternate sites generally described in the notice referred to in R14-3-207(A), a further hearing shall be held thereon after public notice, as provided in R14-3-213(A), shall be deemed to run from the date of such public notice.

Effective 2-70.

Historical Note

Former General Order U-51, Article VIII.

R14-3-209. Extensions of time

For good cause shown, continuances and extensions of time will be granted in the discretion of the Presiding Officer, provided however, that when such continuance or extension is provided to an applicant, the running of the 180-day period specified in R14-3-213(A) shall be deemed to be tolled and shall cease to run during such continuance or extension. No such continuance or extension shall be granted to an applicant until such applicant has waived its right to "immediately proceed with construction of the planned facilities" as provided in A.R.S. § 40-360.08(B) for a period of time equal to the applicable time period under these regulations; plus such continuance or extension.

Effective 2-70.

Historical Note

Former General Order U-51, Article IX.

R14-3-210. Witnesses and subpoenas

A. Subpoenas requiring the attendance of witnesses from any place in the state of Arizona at any designated place of hearing may be issued by the Executive Secretary of the Corporation Commission.

B. Subpoenas for the productions of books, papers or documents shall be issued by the Executive Secretary only upon application in writing. Applications to compel witnesses who are not parties to the proceedings, or agents of such parties, to produce documentary evidence must specify, as nearly as may be practicable, the books, papers, or documents desired. Applications to compel a party to the proceedings to produce books, papers or documents should set forth the books, papers or documents sought, with a statement as to the reasons they will be of service in the determination of the proceeding.

C. Witnesses who are summoned are entitled to the same fees as are paid for like service in the courts of the state of Arizona, such fees to be paid by the party at whose instance the witness is called or subpoenaed.

D. If service of subpoena is made by an officer of the state or his deputy, such service shall be evidenced by his return thereon. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service the original subpoena shall be exhibited to the person served, shall be read to him if he is unable to read, and a copy thereof shall be left with him. The original subpoena, bearing or accompanied by the required return, shall be returned forthwith to the Presiding Officer.

Effective 2-70.

Historical Note

Former General Order U-51, Article X.

R14-3-211. Documentary evidence

A. When relevant and material matter offered in evidence by any party is embraced in a book, papers, or document containing other matter, not material or relevant, the party must plainly designate the matter so offered. If the other matter is in such volume as would unnecessarily encumber the record, such book, paper or document will not be received in evidence but may be marked for identification and, if properly authenticated, the relevant and material matter may be read into the record, or if the Presiding Officer so directs, a true copy of such matter shall be received as an exhibit, and like copies delivered by the party offering the same to opposing parties or their attorneys or agents appearing at the hearing, who shall be afforded opportunity to examine the book, papers or document, and to offer in evidence in like manner other portions thereof, if found to be material and relevant.

B. In case any matter contained in a report or other document on file with the Committee or the Commission is offered in evidence, such report or other document need not be produced, or marked for identification, but in other respects the provisions of subsection (A) hereof shall apply.

C. In case any portion of the record before the Committee in any proceeding other than the one on hearing is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless --

1. The party offering the same agrees to supply such copy later at his own expense, if and when required by the Committee; and
2. The portion is specified with particularity in such manner as to be readily identified; and
3. The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to paragraphs (1) and (2); and
4. The Presiding Officer directs such incorporation.

Any portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

D. When exhibits of a documentary character are to be offered in evidence, copies shall be furnished to the other parties, unless the Presiding Officer otherwise directs. Whenever practicable, the parties should interchange copies of exhibits before or at the commencement of the hearing;

E. When agreed upon by the parties at or after the hearing, the Presiding Officer, if he deems advisable, may receive specified documentary evidence as a part of the record within a time to be fixed by him, but not more than five days after the final date of hearing.

F. Unless the Presiding Officer shall otherwise direct, 25 copies of each reproducible exhibit shall be furnished for the use of the Committee.

Effective 2-70.

Historical Note

Former General Order U-51, Article XI.

R14-3-212. Transcript of testimony

Upon payment therefor, the reporter shall furnish to any person a typewritten transcript of all or any part of the proceedings so reported and, upon request, certify that such transcript is a correct and complete statement of such proceedings.

Effective 2-70.

Historical Note

Former General Order U-51, Article XII.

R14-3-213. Decision of committee and certificate

A. The Committee shall review and consider the transcript and record of the hearing or hearings and shall by a written decision of a majority of the members and notice to all parties issue or deny a certificate or environmental compatibility within 180 days after the date upon which the application has been received by the chairman, except where additional time is otherwise provided for herein or by stipulation or waiver.

B. Upon request of a majority of the Committee, the parties to a certification proceeding may be requested to file briefs with the Committee. Each brief should contain an abstract of the evidence relied upon and requests for such specific findings as the party thinks the Committee should make. Briefs not filed with the Committee and served on or before the dates fixed therefor will not be received except by special permission of the chairman. All briefs must be accompanied by notice showing service upon all other parties and 20 copies of each brief shall be furnished for the use of the Committee.

C. If oral argument is requested by a majority of the Committee, the chairman shall notify all parties and shall arrange for the Committee to hear the argument within such limits of time as he may determine.

D. Any member or members of the Committee may prepare for the record separate written opinions setting forth their disagreement or concurrence with the written decision of the majority of the Committee. Such opinions shall be appended to the decision of the majority of the Committee, provided they are received before notice of such decision is submitted to the parties.

E. Should the estimated cost of the facilities or site be increased as a result of the action of the Committee, such increase, as determined by an independent engineering firm selected jointly by the Committee and the applicant, shall be reflected in the certificate issued by the Committee.

F. Upon notice filed with the Committee, and accompanied by an agreement on a form supplied by the Committee in which the transferee agrees to comply with the terms, limitations and conditions contained within a certificate of environmental compatibility, such certificate may be transferred to any utility.

Effective 2-70.

Historical Note

Former General Order U-51, Article XIII.

R14-3-214. Review of committee decision

A. Within five days of the issuance of a certificate of environmental compatibility, the Committee shall transfer a copy of said certificate along with its written decision, to the Corporation Commission for its review and approval, subject to subsection (B) hereof.

B. Within 15 days after the date the Committee has rendered its written decision any party to a certification proceeding may request a review thereof by the Corporation Commission.

C. Grounds for requesting review shall be stated in a written notice filed with the Corporation Commission with a copy thereof served on the chairman of the Committee and all parties to the certification proceeding.

D. Within five days of receipt of the notice referred to in subsection (C) hereof, the chairman shall transmit to the Corporation Commission the complete record, including a certified transcript.

Effective 2-70.

Historical Note

Former General Order U-51, Article XIV.

R14-3-215. Computation of time -- holidays

When the time prescribed by these rules for doing any act expires on a Saturday, Sunday, or a legal holiday, such time shall extend to and include the next succeeding day that is not a Saturday, Sunday, or a legal holiday.

Effective 2-70.

Historical Note

Former General Order U-51, Article XV.

R14-3-216. Application of Rules of Civil Procedure

When not in conflict with law, these Rules of Practice and Procedure shall govern in all cases before the Committee. In all cases in which procedure is not set forth either by law or by these rules, the Rules of Civil Procedure for the Superior Courts of Arizona, as established by the Supreme Court of Arizona, shall govern, except as may be otherwise directed by the Corporation Commission.

Effective 2-70.

Historical Note

Former General Order U-51, Article XVI.

R14-3-217. Office and address

A. Applications and other papers required to be filed with the Corporation Commission may be transmitted by mail or express, or otherwise delivered but must be received for filing at its office in Phoenix, Arizona, within the time limit, if any, for such filing.

B. Papers required to be filed with the Committee may be transmitted by mail or express, or otherwise delivered but must be received for filing at the Arizona Corporation Commission,

Utilities Division, 1688 West Adams, Phoenix, Arizona 85007, within the time limit, if any, for such filing.

Effective 2-70.

Historical Note

Former General Order U-51, Article XVII.

R14-3-218. Filing fees

A. The fees to be paid pursuant to A.R.S. § 40-360.09, for each application, shall be made payable to the Utility Siting Fund and delivered to the chairman of the Commission on behalf of the Committee at Phoenix, Arizona.

B. A receipt evidencing payment of the appropriate fee shall be issued immediately in order to permit the applicant to comply with A.R.S. § 40-360.03.

Effective 2-70.

Historical Note

Former General Order U-51, Article XVIII.

R14-3-219. Form of application for certificate of environmental compatibility (pursuant to A.R.S. §§ 40-360.03 and 40-360.06)

Applications for certificates of environmental compatibility shall be typed or printed on 8 1/2 x 11 paper and shall contain the following information, including information required as exhibits, in the sequence provided:

1. Name and address of the applicant, or in the case of a joint project, the applicants.
2. Name, address and telephone number of a representative of an applicant who has access to technical knowledge and background information concerning the application in question and who will be available to answer questions or furnish additional information.
3. State each date on which applicant has filed a ten-year plan in compliance with A.R.S.§ 40-360.02 and designate each such filing in which the facilities for which this application is made were described. If they have not been previously described in a ten-year plan, state the reasons therefore.
4. Description of the proposed facility, including:
   a. With respect to an electric generating plant:
      i. Type of generating facilities (nuclear, hydro, fossil-fueled, etc.).
      ii. Number and size of proposed units.
      iii. The source and type of fuel to be utilized, including a proximate analysis of fossil fuels.
      iv. Amount of fuel to be utilized daily, monthly and yearly.
      v. Type of cooling to be utilized and source of any water to be utilized.
      vi. Proposed height of stacks and number of stacks, if any.
      vii. Dates for scheduled start-up and firm operation of each unit and date construction must commence in order to meet schedules.
      viii. To the extent available, the estimated costs of the proposed facilities and site, stated separately. (If application contains alternative sites, furnish an estimate for each site and a brief description of the reasons for any variations in estimates.)
      ix. Legal description of proposed site. (If application contains alternative sites, list sites in order of applicant's preference with a summary of reasons for such order of preference and any changes such alternative sites would require in the plans reflected in (i) through (viii) hereof.)
   b. With respect to a proposed transmission line:
      i. Nominal voltage for which the line is designed; description of the proposed structures and switchyards or substations associated therewith; and purpose for constructing said transmission line.
      ii. Description of geographical points between which the transmission line will run, the straight-line distance between such points and the length of the transmission line for each alternative route for which application is made.
      iii. Nominal width of right-of-way required, nominal length of spans, maximum height of supporting structures and minimum height of conductor above ground.
      iv. To the extent available, the estimated costs of proposed transmission line and route, stated separately. (If application contains alternative routes, furnish an estimate for each route and a brief description of the reasons for any variations in such estimates.)
      v. Description of proposed route and switchyard locations. (If application contains alternative routes, list routes in order of applicant's preference with a summary of reasons for such order of preference and any changes such alternative routes would require in the plans reflected in (i) through (iv) hereof.)
      vi. For each alternative route for which application is made, list the ownership percentages of land traversed by the entire route (federal, state, Indian, private, etc.).
5. List the areas of jurisdiction [as defined in A.R.S. § 40-360(1)] affected by each alternative site or route and designate those proposed sites or routes, if any, which are contrary to the zoning ordinances or master plans of any of such areas of jurisdiction.
6. Describe any environmental studies applicant has performed or caused to be performed in connection with this application or intends to perform or cause to be performed in such connection, including the contemplated date of completion.

Name of each Applicant
Signature of Authorized Representative of each Applicant

Certificate of Delivery to Arizona Corporation Commission stating the date of such delivery.

EXHIBITS TO APPLICATION*

Exhibit A:

1. Where commercially available,** a topographic map, 1:250,000 scale, showing the proposed plant site and the adjacent area within 20 miles thereof. If application is made for alternative plant sites, all sites may be shown on the same map, if practicable, designated by applicant's order of preference.
2. Where commercially available,** a topographic map, 1:62,500 scale, or each proposed plant site, showing the area within two miles thereof. The general land use plan within this area shall be shown on the map, which shall also show the areas of jurisdiction affected and any boundaries between such areas of jurisdiction. If the general land use plan is uniform throughout the area depicted, it may be described in the legend in lieu of an overlay.

3. Where commercially available,** a topographic map, 1:250,000 scale, showing any proposed transmission line route of more than 50 miles in length and the adjacent area. For routes of less than 50 miles in length, use a scale of 1:62,500. If application is made for alternative transmission line routes, all routes may be shown on the same map, if practicable, designated by applicant's order of preference.
4. Where commercially available,** a topographic map, 1:62,500 scale, of each proposed transmission line route of more than 50 miles in length showing that portion of the route within two miles of any subdivided area. The general land use plan within the area shall be shown on a 1:62,500 map required for Exhibit A-3, and for the map required by this Exhibit A-4, which shall also show the areas of jurisdiction affected and any boundaries between such areas of jurisdiction. If the general land use plan is uniform throughout the area depicted, it may be described in the legend in lieu of on an overlay.

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* Duplication of information shall be avoided in the application and exhibits through the use of cross-references.

** If a topographic map is not commercially available, a map of similar scale, which reflects prominent or important physical features of the area in the vicinity of the proposed site or route shall be substituted.

Exhibit B:

Attach any environmental studies which applicant has made or obtained in connection with the proposed site(s) or route(s). If an environmental report has been prepared for any federal agency or if a federal agency has prepared an environmental statement pursuant to Section 102 of the National Environmental Policy Act, a copy shall be included as a part of this exhibit.

Exhibit C:

Describe any areas in the vicinity of the proposed site or route which are unique because of biological wealth or because they are habitats for rare and endangered species. Describe the biological wealth or species involved and state the effects, if any, the proposed facilities will have thereon.

Exhibit D:

List the fish, wildlife, plant life and associated forms of life in the vicinity of the proposed site or route and describe the effects, if any, the proposed facilities will have thereon.

Exhibit E:

Describe any existing scenic areas, historic sites and structures or archaeological sites in the vicinity of the proposed facilities and state the effects, if any, the proposed facilities will have thereon.

Exhibit F:

State the extent, if any, the proposed site or route will be available to the public for recreational purposes, consistent with safety considerations and regulations and attach any plans the applicant may have concerning the development of the recreational aspects of the proposed site or route.

Exhibit G:

Attach any artist's or architect's conception of the proposed plant or transmission line structures and switchyards, which applicant believes may be informative to the Committee.

Exhibit H:

To the extent applicant is able to determine, state the existing plans of the state, local government and private entities for other developments at or in the vicinity of the proposed site or route.

Exhibit I:

Describe the anticipated noise emission levels and any interference with communication signals which will emanate from the proposed facilities.

Exhibit J:

Describe any special factors not previously covered herein, which applicant believes to be relevant to an informed decision on its application.

Effective 2-70.

Historical Note

Former General Order U-51, Article XIX.

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

CHAPTER 4. CORPORATION COMMISSION SECURITIES

The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)). This exemption means that the rule was not certified by the Attorney General. Because this Chapter was filed under a rulemaking exemption, as determined by the Corporation Commission, other than a statutory exemption, the Chapter is printed on green paper.

(Authority: A.R.S. §§ 44-1821 and 44-1845)

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Section
Preamble
Severability
R14-4-101. Exempt transactions -- existing stockholders and/or employees
R14-4-102. Exempt transactions -- restricted public offering
R14-4-103. Advertising and sales literature
R14-4-104. Registration of dealers and salesmen
R14-4-105. Promotional securities; definitions
R14-4-106. Options, warrants and rights to purchase
R14-4-107. Promoters equity
R14-4-108. Sales commission and expenses
R14-4-109. Examination of prospective dealers and salesmen
R14-4-110. Installment sales
R14-4-111. Commissions to officers and directors
R14-4-112. Impoundment of funds
R14-4-113. Impound dates -- application to extend
R14-4-114. Listing of certain publications as constituting recognized manuals of securities, as used in A.R.S. § 44-1844(11)
R14-4-115. Listing of national securities exchanges registered under the Securities Exchange Act of 1934, as used in A.R.S. § 44-1843(7)
R14-4-116. Inspection of registration information
R14-4-117. Repealed
R14-4-118. Statement required in prospectuses
R14-4-119. Repealed
R14-4-120. Financial statements
R14-4-121. Limitation on activities of securities salesmen
R14-4-122. Fingerprinting of salesmen
R14-4-123. Financial information required by applicants for exemptions
R14-4-124. Net worth requirements for registration by description of commodity investment contracts or commodity option contracts
R14-4-125. Commodities exchanges recognized for purposes of A.R.S. § 44-1844(13)
R14-4-126. Limited Offerings
R14-4-127. Guidelines for securities filings pursuant to A.R.S. § 44-1846
R14-4-128. Unsolicited transactions
R14-4-129. Registration procedures for dealers and salesmen
R14-4-130. Dishonest and Unethical Conduct
R14-4-131. Supervision of Salesmen
R14-4-132. Books and Records of Dealers
R14-4-133. Definition of Partners and Executive Officers
R14-4-134. Guidelines for securities filings pursuant to A.R.S. § 44-1902
R14-4-135. Exempt securities - Multijurisdictional disclosure system
R14-4-136. Exempt Transactions - Offers and Sales of Securities Pursuant to Certain Compensatory Benefit Plans and Contracts Relating to Compensation
R14-4-137. Exempt transactions - Securities issued pursuant to court or governmental order
R14-4-138. Foreign Security Exemption
R14-4-139. Reserved
R14-4-140. Exempt Public Offerings to Accredited Investors
R14-4-141. Solicitation of Interest Prior to the Filing of the Registration Statement
R14-4-142. Securities Offerings on the Internet
R14-4-143. Reserved
R14-4-144. Suitability Standards pursuant to A.R.S. § 44-1845
R14-4-145. Exemption for Electronic Venture Capital Networks
R14-4-146. Processing of Initial and Renewal Applications for the Registration or Exemption of Securities Offerings
R14-4-147. Processing of Applications for Dealer and Salesman Registration
Table A. Arizona Corporation Commission Securities Division - Time-Frames

ARTICLE 2. REPEALED

Former Article 2 consisting of Sections R14-4-201 through R14-4-212 repealed effective May 16, 1978.

ARTICLE 3. PROVISIONS RELATING TO ENFORCEMENT

Section
R14-4-301. Scope of Article
R14-4-302. Definitions
R14-4-303. Confidentiality
R14-4-304. Methods of Service of Subpoenas, Notices, Orders, and Other Administrative Documents
R14-4-305. Rights of Witnesses; Formal Interview; Procedures
R14-4-306. Notice of an Opportunity for a Hearing and Notice of a Hearing
R14-4-307. Temporary Cease-and-desist Orders
R14-4-308. Rescission and Restitution

ARTICLE 1. IN GENERAL RELATING TO THE ARIZONA SECURITIES ACT

Preamble: The following rules are hereby adopted by the Arizona Corporation Commission by the authority granted it of Chapter 12, Article 3, Section 44-1821, A.R.S. Such rules supersede all rules heretofore adopted, and from this date shall be generally applicable to the administration of the Securities Act, and the procedure and practice before the Commission, but the Commission may at any time abrogate the application of any particular rule in any specific instance where the Commission may deem it advisable for equitable administration of the law.

The definitions set forth in A.R.S. § 44-1801 shall apply to these rules in the same respect as they apply to the Security Act.

All applicants seeking to register securities by qualification, or who seek exemptions pursuant to A.R.S. §§ 44-1845 or 44-1846 or who seek registration as a dealer or salesman shall comply with the following rules.

Severability: If any provision of these rules be held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision and to this end the provisions of these rules are declared to be severable.

Historical Note
Former Order S-0; Amended effective July 18, 1985 (Supp. 85-4).

R14-4-101. Exempt transactions -- existing stockholders and/or employees

A. An offering of securities within or from this state which is exclusively to bona fide employees and/or existing security holders of the issuer and/or a subsidiary of such issuer, or if the issuer is a subsidiary, is exclusively to the bona fide employees and/or existing security holders of the issuer and/or its parent, shall be added to the class of transactions exempt under A.R.S. § 44-1844, provided that this exemption shall not be construed to apply to an offering to be made in connection with or integrated with an offering otherwise subject to A.R.S. §§ 44-1841 and 44-1842, and further provided that:

1. The aggregate amount of the offering to be made within or from this state shall not exceed $500,000.00; and
2. No commission or remuneration of any kind, other than transfer agent's fees, shall be paid directly or indirectly by the issuer to any person in connection with the distribution or sale of such securities; and
3. A verified statement of the details and purposes of the offering and the financial condition of the issuer shall be filed with the Commission at least ten days before the offering is made, and no material change in the details of the offering shall be effected thereafter without the consent of the Commission; and
4. Any subscription contract calling for deferred payments shall be subject to the approval of the Commission; and
5. If the issuer is not domiciled in this state or is not a corporation organized under the laws of the state, a consent to service (Uniform Form U-2) shall be filed with the details of offering prescribed in Paragraph (2) above.

B. This exemption is not to be construed as providing "blanket" authority for an aggregate offering of $500,000.00, but is available in specified amounts for specific purposes not in excess of $500,000.00. Successive notices may be filed under this rule by the same issuer until the total amount encompassed in such filings equals the maximum amount permitted in this exemption.

C. Form and contents of verified statement to be filed:

1. No particular form of instrument is prescribed for the filing of the required information due to extreme variables in situations and conditions of offerings eligible for exemption under this rule. The caption should, however, clearly indicate the full name, type of organization, and the state in which organized; and should be entitled a "Notice of Intention to Sell Securities Pursuant to R14-4-101".
2. The details and purposes of the offering, to which reference is made in Subsection (A) Paragraph (3) above, must be fully set out, including but not limited to a description of the securities to be sold, number of units and selling price per unit, method of offering, allocation of proceeds and statement of financial condition prepared in accordance with generally accepted accounting principles.
3. The text of the instrument must contain a recitation of the facts clearly indicating that all conditions affecting eligibility for this exemption exist, and that the issuer has taken appropriate action to authorize the issuance of securities.
4. The instrument shall be executed by an authorized officer of the issuer whose signature shall be verified under oath.
5. The principal business address, and mailing address if different therefrom, must be shown.
6. Below the verification of signature, the following form for acknowledgment by the Commission shall be provided:

   "Receipt of the foregoing Notice of Intention to Sell Securities is acknowledged as of the date indicated. The Commission enters no objection to the offering described therein, and such offering may be commenced _____,19___.

   ARIZONA CORPORATION COMMISSION
   Securities Division
   _____"

D. Filing of notice and exhibits.

1. The instrument is to be filed in duplicate (except that only one copy of the financial statement is required if such statement is attached to, rather than included in, the instrument) one copy of which shall be acknowledged and returned to the issuer as evidence of filing.
2. One copy of any subscription form or written material describing, or to be used in connection with, the offering must be filed with the notice.

E. Exemptions subject to denial and revocation: The Commission may in its discretion at any time deny or revoke the exemption herein provided as to any issuer or issuers. In the event of such denial or revocation the issuer or issuers affected thereby shall be notified of such action by the Director of the Securities Division of the Commission. Such notice shall be given by registered mail.

Address all communications to
Arizona Corporation Commission
Securities Division
1200 West Washington Street
Phoenix, Arizona 85007

F. This exemption shall be effective for one year from the date the Notice of Intention to Sell Securities is acknowledged by the Director of Securities.

Historical Note
Former Order S-1; Amended effective May 16, 1978 (Supp. 78-3). Amended Subsection (E) effective August 4, 1982 (Supp. 82-4). Amended effective July 18, 1985 (Supp. 85-4).

R14-4-102. Exempt transactions -- restricted public offering

A. An offering of securities within or from this state which offering shall be made to not more than ten persons shall be added to the class of transactions exempt under A.R.S. § 44-1844, provided that this exemption shall not be construed to apply to an offering to be made in connection with or integrated with an offering otherwise subject to A.R.S. §§ 44-1841 and 44-1842, and further provided that:

1. The aggregate amount of offering to be made within or from this state shall not exceed $100,000.00; and
2. No commission or remuneration of any kind, other than transfer agent's fees, shall be paid directly or indirectly by the issuer to any person in connection with the distribution or sale of such securities; and
3. A verified statement of the details and purposes of the offering and the financial condition of the issuer shall be

filed with the Commission at least ten days before the offering is made, and no material change in the details of the offering shall be effected thereafter without the consent of the Commission; and

4. Any subscription contract calling for deferred payments shall be subject to the approval of the Commission; and
5. If the issuer is not domiciled in this state or is not a corporation organized under the laws of the state, a consent to service (Uniform Form U-2) shall be filed with the details of the offering prescribed in paragraph (2) above.
6. The issuer and any person acting on its behalf shall reasonably believe prior to making any sale that the investment is suitable for the purchaser. For the limited purpose of this condition only, it may be presumed that if the investment does not exceed 20% of the investor's net worth (excluding principal residence, furnishings therein and personal automobiles) it is suitable.

B. This exemption is not to be construed as providing "blanket" authority for an aggregate offering of $100,000.00, but is available in specified amounts for specific purposes not in excess of $100,000.00. Successive notices may be filed under this rule by the same issuer until the total amount encompassed in such filings equals the maximum amount permitted in this exemption.

C. Form and contents of verified statement to be filed:

1. No particular form of instrument is prescribed for the filing of the required information due to extreme variables in situations and conditions of offerings eligible for exemption under this rule. The caption should, however, clearly indicate the full name, type of organization, and state in which organized; and should be entitled a "Notice of Intention to Sell Securities, pursuant to R14-4-102".
2. The details and purposes of the offering, to which reference is made in subsection (A), paragraph (3) above, must be fully set out, including but not limited to a description of the securities to be sold, number of units and selling price per unit, method of offering, allocation of proceeds and statement of financial condition prepared in accordance with generally accepted accounting principles.
3. The text of the instrument must contain a recitation of the facts clearly indicating that all conditions affecting eligibility for exemption exist, and that the issuer has taken appropriate action to authorize the issuance of securities.
4. The instrument shall be executed by an authorized officer of the issuer whose signature shall be verified under oath.
5. The principal business address, and mailing address if different therefrom, must be shown.
6. Below the verification of signature, the following form for acknowledgment by the Commission shall be provided:

"Receipt of the foregoing Notice of Intention to Sell Securities is acknowledged as of the date indicated. The Commission enters no objection to the offering described therein, and such offering may be commenced _____,19___.

ARIZONA CORPORATION COMMISSION
Securities Division
_____"

D. Filing of notice and exhibits:

1. The instrument is to be filed in duplicate (except that only one copy of the financial statement is required if such statement is attached to, rather than included in, the instrument) one copy of which shall be acknowledged and returned to issuer as evidence of filing.
2. One copy of any subscription form or written material describing, or to be used in connection with, the offering must be filed with the notice.

E. Exemptions subject to denial and revocation: The Commission may in its discretion at any time deny or revoke the exemption herein provided as to any issuer or issuers. In the event of such denial or revocation the issuer or issuers affected thereby shall be notified of such action by the Director of Securities Division of the Commission. Such notice shall be given by registered mail.

Address all communications to:
Arizona Corporation Commission
Securities Division
1200 West Washington Street
Phoenix, Arizona 85007

F. This exemption shall be effective for one year from the date the Notice of Intention to Sell Securities is acknowledged by the Director of Securities.

Historical Note

Former Order S-2; Amended effective May 16, 1978 (Supp. 78-3). Amended subsection (E) effective August 4, 1982 (Supp. 82-4). Amended effective July 18, 1985 (Supp. 85-4).

R14-4-103. Advertising and sales literature

A. Any advertising, communication, prospectus or sales literature of any kind, published, exhibited, broadcast for radio or television, or used directly or indirectly in connection with the purchase or sale of any securities registered or subject to registration under A.R.S. §§ 44-1871 or 44-1891, shall be filed with the Commission at least three days prior to its proposed use.

B. No advertising, communication, prospectus, or sales literature of any kind shall contain:

1. Any untrue statement of material fact nor any omission to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.
2. Any statement or inference that the securities offered are without risk, that dividend returns are assured, or that failure or loss is not possible.
3. Any comparison with alleged analogous situations, nor statistics or statements relating to the financial condition, growth or business success of other companies or the appreciation of or returns from the securities of other companies except that a statutory prospectus meeting the requirements of A.R.S. § 44-1894 may contain financial and business information concerning subsidiaries or affiliates and statistics or statements concerning an issuer's competitive position in its industry.

C. Any advertising, communication, prospectus, or sales literature of any kind shall contain:

1. The name of the issuer and of the person circulating or publishing the same.
2. A statement showing the connection between the issuer or dealer and every person whose name is used or from whom quotations are made.
3. A statement clearly indicating the source and authority of all reports, statements, or claims used in whole or in part or in any manner referred to therein relating to oil, gas or mineral occurrence, or production potentials of any kind.
4. Other than in a statutory prospectus meeting the requirements of A.R.S. § 44-1894, substantially the following legend: "THIS IS NEITHER AN OFFER TO SELL NOR A SOLICITATION OF AN OFFER TO BUY THE SECURITIES DESCRIBED HEREIN. THE OFFERING

IS MADE ONLY BY THE PROSPECTUS." If printed, the legend shall appear on the face of the advertisement, communication, prospectus, or sales literature in type as large as that used generally in the body thereof.

D. The body of all printed advertisements, communications, prospectuses or sales literature shall be in Roman type at least as large as ten-point modern type. However, to the extent necessary for convenient presentation, financial statements and other statistical or tabular data and the notes thereto may be in Roman type at least as large as eight-point modern type. All type shall be leaded at least two points.

E. No advertising, communication, prospectus or sales literature of any kind shall be published in the same issue of a newspaper, magazine or other periodical on the same page as or on a page opposite to, nor be broadcast from or on the same radio station or television channel, immediately before or immediately after a separate advertisement or communication of or concerning the issuer that is unrelated to the sale of its goods or services but is related to the financial condition, growth or business success of the issuer or other companies.

F. The full text of any report, statement or claim relating to oil, gas, or mineral occurrence, or production potentials, used in whole or in part or in any manner referred to in any advertising, communication, prospectus or sales literature of any kind, shall be filed with the Commission at least three days prior to its proposed use.

G. Oral statements made by salesmen or other persons in connection with the purchase or sale of a security registered or subject to registration under A.R.S. §§ 44-1871 or 44-1891, supplementing, interpreting or explaining any advertising, communication, prospectus or sales literature are subject to all applicable provisions of this rule and no person shall make any statement contrary to the provisions hereof.

H. No advertising, communication, prospectus, or sales literature not filed with the Commission shall be used, nor shall any advertising, communication, prospectus, or sales literature filed with the Commission be used after entry of an Order by the Commission prohibiting its use.

I. The provisions of subsections (A) through (H) of this rule shall not apply to advertising, communication, prospectus or sales literature of any kind, published, exhibited, or broadcast for radio or television, meeting the requirements of the Securities and Exchange Commission Rule 156 [17 CFR 230.156] relating to advertising and sales literature used in the sale of investment company shares registered pursuant to the Investment Company Act of 1940.

Historical Note

Former Order S-3; Amended effective August 4, 1982 (Supp. 82-4). Amended subsection (I) effective July 18, 1985 (Supp. 85-4).

R14-4-104. Registration of dealers and salesmen

No dealer or salesman as defined in A.R.S. § 44-1801 shall engage in the following transactions unless such dealer or salesman is registered pursuant to Article 9 of this Chapter.

1. Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1843(7) being securities listed, or approved for listing upon the issuance thereof upon the New York stock exchange, the American stock exchange, Midwest stock exchange and any other national securities exchanges registered under the Securities Exchange Act of 1934 as may hereafter from time to time be designated by order of the Commission and securities designated or approved for designation on notice of issuance on the National Market System of the National Securities Association registered under the Securities Exchange Act of 1934, and all securities senior or equal in rank to any securities so listed or approved for listing, designated or approved for designation, or represented by subscription rights or warrants which have been so listed, designated or approved for listing and any warrant or right to purchase or subscribe to any of the foregoing. No dealer or salesman shall, however, be required to register for the purpose of selling or offering to sell that portion of an offering of securities so listed, designated or approved for listing which is directed to securities holders or employees of an issuer when the offering is made by the issuer, or is made by a dealer or salesman acting without compensation other than a reasonable standby charge applicable to such securities by virtue of a distribution agreement relating to any balance of the offering remaining unsubscribed by existing securities holders or employees of the issuer.
2. Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1844(4), being securities sold in an isolated transaction by or on behalf of the bona fide owner thereof. No dealer or salesman shall, however, be required to register for the purpose of acting without compensation as an agent for an owner or owners in an isolated transaction which is not made directly or indirectly for the benefit of the issuer or underwriter, and which dealer or salesman does not engage in or offer to engage in repeated and successive transactions of a similar character. Repeated and successive transactions of a similar character are deemed to include transactions by a dealer or salesman acting as agent for, or dealing in the securities owned by, one or more owners, whether the securities are of the same or different issuers, in transactions recurring within such intervals of time as to reasonably indicate continuity or an association of acts.
3. Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1844(11), being securities theretofore sold and distributed to the public and concerning which information appears in a recognized manual of securities at the time of sale.
4. Transactions involving securities issued by a nonprofit organization which is engaged in or intends to engage in the construction, operation, maintenance, or management of a hospital, sanitarium, rest home, clinic, medical hotel, cemetery or mausoleum, pursuant to the provisions of A.R.S. § 44-1843(6).
5. Transactions involving securities issued or guaranteed by any state or territory, or any political subdivision of such state or territory, or by the District of Columbia, or by any agency or instrumentality of one or more of any of the foregoing.
6. Transactions involving securities issued or guaranteed by any foreign government or by a political subdivision of a foreign government.
7. Transactions involving securities exempt from registration pursuant to A.R.S. § 44-1844(1), being transactions by an issuer not involving any public offering. No dealer or salesman, however, shall be required to register unless such dealer or salesman is engaged principally and primarily in the business of making a series of private offerings. For the purposes of this paragraph "series" means in excess of four private offerings in any consecutive 12-month period occurring after the effective date of this rule.

Historical Note

Former Order S-4; Amended effective August 20, 1976 (Supp. 76-4). Amended effective June 15, 1978.

Amended as an emergency pursuant to A.R.S. § 41-1003, valid for only 90 days, to postpone effective date until July 17, 1978 (Supp. 78-3). Amended effective July 14, 1978 to postpone effective date until November 1, 1978 (Supp. 78-4). Amended paragraph (3) effective August 4, 1982 (Supp. 82-4). Amended effective July 18, 1985 (Supp. 85-4). Amended effective May 18, 1990 (Supp. 90-2).

R14-4-105. Promotional Securities; Definitions

A. Promotional securities, held by promoters of a promotional stage corporation that proposes to make a public offering of its securities pursuant to A.R.S. Title 44, Chapter 12, Article 7, except pursuant to A.R.S. § 44-1901, shall be subject to a restrictive sales agreement in accordance with the provisions of this Section.

B. As used in this Section, the following terms have the meaning indicated.

1. "Consideration" includes cash, services rendered, and tangible or intangible property.
2. "Earnings per share" means fully diluted earnings computed in accordance with generally accepted accounting principles.
3. "Promoters" means any person who meets any 1 of the following conditions. Promoter does not include an unaffiliated institutional investor or a person who receives either securities or proceeds solely as underwriting compensation and who is not a promoter under subsection (B)(3)(a), (c), (d), or (e).
   a. Alone or in conjunction with 1 or more persons, directly or indirectly, founded, organized, or controls the issuer;
   b. Directly or indirectly receives, as consideration for service and property rendered, 5% or more of any class of the issuer's equity securities or 5% or more of the proceeds from the sale of any class of the issuer's equity securities;
   c. Is an officer, or director of the issuer;
   d. Directly or indirectly, legally or beneficially owns 10% or more of the issuer's outstanding shares before or immediately following the public offering;
   e. Directly or indirectly, through 1 or more intermediaries, controls or is controlled by, or is under common control with, a promoter as defined in subsections (B)(3)(a) through (d).
4. "Promotional stage corporation" means a corporation that has no public market for its shares and has no significant earnings.
5. "Promotional securities" means securities issued to a promoter, at any time during the 3-year period prior to the proposed public offering date, that meet the conditions of subsection (C). Promotional securities shall be limited to common stock unless securities other than common stock were issued for the primary purpose of evading this Section.
6. "Public market" means a public place of exchange where securities are bought and sold, directly or through intermediaries. Public market excludes "thin markets" that do not result in reliable prices. To determine if the securities trade in a public market, the Commission may consider the market history, the public trading volume, the spread between the bid and asked prices, the number of market makers, the public float, the pricing formula, the marketplace in which the securities trade, the length of time the securities have been traded in that marketplace, and other relevant factors.
7. "Restrictive sales agreement" means an agreement between a promotional stage corporation and a promoter, for the benefit of the shareholders of the corporation, entered into prior to the proposed public offering of the promotional stage corporation's securities, subjecting the promotional securities to a sales restriction for up to 3 years following the proposed public offering and including the terms contained in subsection (H). As a condition of registration, the issuer shall submit the agreement to the Commission for review.
8. "Significant earnings" means earnings per share, based upon the issuer's shares outstanding immediately before the proposed public offering, of at least 1 of the following. Such test shall not be deemed the exclusive test for the determination of "significant earnings."
   a. 5% of the public offering price per common share for the prior fiscal year, or the period of the issuer's existence if less than 1 fiscal year;
   b. 4% of the public offering price per common share for each of the prior 2 fiscal years; or
   c. 3% of the public offering price per common share for each of the prior 3 fiscal years.
9. "Unaffiliated institutional investor" means any unaffiliated bank; investment company registered under the Investment Company Act of 1940, 15 U.S.C. 80a-1 to 80a-64 (1994), as amended; business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(a)(48) (1994 & Supp. II 1996), incorporated by reference; small business investment company licensed by the U.S. Small Business Administration under Section 301 of the Small Business Investment Act of 1958, 15 U.S.C. 681 (1994), as amended; employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(3) (1994), incorporated by reference; insurance company; private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-2(a)(22) (1994), incorporated by reference; or comparable business entity engaged as a substantial part of its business in the purchase and sale of securities and that owns less than 20% of the securities to be outstanding at the completion of the proposed public offering. Copies of documents incorporated by reference do not contain any later amendments or editions, are on file in the Office of the Secretary of State, and are available from the Securities Division of the Corporation Commission and from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

C. Securities that are issued to promoters for consideration valued at less than the following percentages of the proposed public offering price, in an amount that represents an ultimate right of participation in excess of 15% of the securities to be outstanding at the completion of the proposed public offering, shall be promotional securities. The value of consideration other than cash received by the issuer for shares shall be established to the Commission's satisfaction by appraisals, evidence of amounts paid by others for substantially similar services or property, evidence of a bona fide offer to purchase such services or property, evidence of significant services rendered or contractually required to be rendered to the issuer, which may take into account the relevant experience, special skills, and other qualifications of the person rendering the service, or any other evidence. The value of noncash consideration that cannot be established to the satisfaction of the Commission shall be 0.

1. For all securities issued to a promoter within 1 year prior to and including the date of the offering of securities to the public: 85%.
2. For all securities issued to a promoter within 2 years but not less than 1 year prior to and including the date of the offering of securities to the public: 75%.
3. For all securities issued to a promoter within 3 years but not less than 2 years prior to and including the date of the offering of securities to the public: 65%.

D. A summary of the sales restriction terms shall be included in the offering documents, and a legend evidencing the sales restriction shall appear on each certificate representing the shares subject to the restriction.

E. In the event that any of the following occurs during the term of the restrictive sales agreement, the promotional securities shall be released in accordance with subsection (G):

1. For 60 consecutive trading days commencing at least 90 days after the date of the offering of the securities to the public, the issuer's securities trade in a public market at a price of not less than 150% of the offering price per share.
2. For 90 consecutive trading days commencing at least 12 months after the date of the offering of the securities to the public, the issuer's securities trade in a public market at a price of not less than 110% of the offering price per share.
3. For any fiscal years ending after the date of the offering of the securities to the public, the issuer has earnings per share of at least:
   a. 5% of the public offering price per common share for that fiscal year;
   b. 4% of the public offering price per common share for that fiscal year and for the prior fiscal year, calculated independently, whether or not such prior fiscal year ended after the date of the offering of the securities to the public; or
   c. 3% of the public offering price per common share for that fiscal year and for each of the 2 prior fiscal years, calculated independently, whether or not such prior fiscal years ended after the date of the offering of the securities to the public.
4. The securities become covered securities as that term is defined in subsection 18(b)(1)(A) of the Securities Act of 1933 (15 U.S.C. 77r(b)(1)(A) (Supp. II 1996)), incorporated by reference.
5. A bona fide tender offer or an offer to merge or otherwise acquire the issuer's equity securities by an unaffiliated purchaser, pursuant to a vote by the majority of the shareholders and in accordance with the following:
   a. If the transaction occurs within 24 months of the effective date of the offering registered with the Commission, all public shareholders of the issuer will receive cash in the amount of at least 2 times the public offering price per share of equity securities at the effective date of the tender offer, merger, or other acquisition, or securities--listed or to be listed, or qualified in all respects for listing, on the New York Stock Exchange, the American Stock Exchange, or the National Market System of the National Association of Securities Dealers Automated Quotations System—in value equal to at least 2 times the public offering price per share of equity securities at the effective date of the tender offer, merger, or other acquisition.
   b. If the transaction occurs more than 24 months after the effective date of the offering registered with the Commission, all public shareholders of the issuer will receive cash in the amount of at least 1 1/2 times the public offering price per share of equity securities, or securities in value equal to at least 1 1/2 times the public offering price per share of equity securities.
6. The securities are transferred by will or pursuant to the laws of descent and distribution or by court order. In all such cases, only the securities so transferred shall be released from the terms of the restrictive sales agreement.

F. If the promotional securities, or any part thereof, have not been released pursuant to subsections (E)(1) through (6), then at the end of the 1st 12-month period after the date of commencement of the restrictive sales agreement, over each of the next 8 calendar quarters, 1/8 of the promotional shares shall be released from the restrictive sales agreement and the restrictive legend may be removed from the certificates representing such shares. There is no filing requirement in connection with the securities released under this subsection.

G. Promotional securities shall automatically be released from the restrictive sales agreement and the restrictive legend may be removed from the share certificates upon the filing with the Commission of any 1 of the following:

1. With respect to subsections (E)(1), (2), or (4), a written representation from the promoter indicating compliance with the applicable subsection;
2. With respect to subsection (E)(3), a written representation from the promoter indicating compliance with such subsection accompanied by financial statements, prepared in accordance with generally accepted accounting principles and audited and reported upon by an independent certified public accountant, that indicate compliance with the subsection;
3. With respect to subsection (E)(5), a written representation from the promoter indicating compliance with such subsection accompanied by any offering materials relating to the specified transaction; or
4. With respect to subsection (E)(6), a certified copy of an order issued by a court of competent jurisdiction that orders the release or transfer of promotional securities, a certified copy of an instrument of distribution filed with a court of competent jurisdiction, or a written representation from the issuer stating that the securities were transferred pursuant to a will or the laws of descent and distribution.

H. The restrictive sales agreement shall include the following terms and conditions:

1. Except as otherwise provided in the agreement, the promotional securities shall not be transferred, sold, pledged, hypothecated, or encumbered nor shall the issuer recognize any attempted transfer, sale, pledge, hypothecation, or encumbrance for 3 years following the conclusion of the proposed offering;
2. The number of promotional securities subject to the restriction;
3. The identity of owners of the promotional securities;
4. The terms of release under subsections (E), (F), and (G);
5. Any profits realized by a promoter who sells promotional securities in violation of the restrictive sales agreement shall inure to and be recoverable by the issuer;
6. Promotional securities may be transferred by gift to family members, not more remote than 1st cousins, or to trusts or similar instruments of which the promoter is the beneficiary for estate-planning purposes, provided the securities remain subject to the terms of the restrictive sales agreement;

7. Promotional securities may be transferred by any method or transaction approved by a majority of the shareholders other than the promoters, provided the securities shall remain subject to the terms of the restrictive sales agreement;
8. Holders of promotional securities shall continue to have all voting and other rights to which they are entitled by ownership of the promotional securities; and
9. All certificates representing stock dividends from promotional securities and all securities resulting from stock splits from promotional securities shall be subject to the terms of the restrictive sales agreement.

I. A breach of the restrictive sales agreement by a promoter shall be deemed a violation of this Section by such promoter.

Historical Note
Former Order S-5; Former Section R14-4-105 repealed, new Section R14-4-105 adopted effective July 30, 1986 (Supp. 86-4). Amended by final rulemaking at 5 A.A.R. 1437, effective April 19, 1999 (Supp. 99-2).

R14-4-106. Options, warrants and rights to purchase

A. The grant of options, warrants and rights to purchase to officers, directors and other employees in the form of incentive stock options, warrants or rights to purchase in accordance with Sec. 422A of the Internal Revenue Code of 1954, as amended, will be considered justified.

B. The grant of options, warrants and rights to purchase to officers, directors and promoters not in accordance with Sec. 422A of the Internal Revenue Code of 1954, as amended, will be considered justified if all of the following conditions are met:
1. A certificate or instrument in evidence thereof is issued prior to the commencement of the proposed public offering.
2. The number of shares covered thereby does not exceed 20% of the number of securities to be outstanding at the completion of the proposed public offering.
3. The initial exercise price is reasonably related to the public offering price.
4. They do not exceed ten years in duration.
5. The prospectus to be used in connection with the proposed public offering contains a full disclosure as to the terms and reasons for their grant.

Historical Note
Former Order S-6; Amended effective July 18, 1985 (Supp. 85-4).

R14-4-107. Promoters equity

A. An amount equal to the following percentages of a proposed public offering shall, before new stock is offered to the public, be paid in or contributed in cash, or other tangibles by the organizers and promoters, except in unusual instances and the burden shall rest on the applicant to justify its exclusion from the following schedule:
10% of the first $200,000.00
5% of the second $200,000.00
1% of the balance

B. The value placed on any non-cash assets so paid in or contributed must be fully substantiated.

Historical Note
Former Order S-7

R14-4-108. Sales commission and expenses

A. No issuer shall incur a liability which must be paid by the issuer as a selling expense in connection with the sale of a public issuance greater than 15% of the amount of said issue actually sold to the public.

B. Selling expense shall include commissions, salaries, advertising and all other expense directly or indirectly incurred in connection with the sale of securities, excluding, however:
1. Attorneys' fees for services in connection with the issue and sale of the securities and their qualification for sale under applicable laws and regulations;
2. The cost of prospectuses, circulars and other documents required to comply with such laws and regulations;
3. Other expenses incurred in connection with such qualification and compliance with such laws and regulations;
4. Cost of authorizing and preparing the securities and documents relating thereto, including issue taxes and stamps; and
5. Charges of transfer agents, registrars, indenture trustees, escrow holders, depositories, auditors, and of engineers, appraisers and other experts.

Historical Note
Former Order S-8.

R14-4-109. Examination of prospective dealers and salesmen

A. Prior to the registration of a dealer or salesman the Commission may require that each applicant take a written examination at a time and place specified by the Commission to determine whether the business experience of the applicant is sufficient to justify the registration of the said applicant.

B. The provisions as stated above shall not apply to those dealers or salesmen whose names appear in the register of dealers and salesmen as of the date of the adoption of these rules.

Historical Note
Former Order S-9.

R14-4-110. Installment sales

Marginal sales of securities will be permitted on an installment basis with approximately 50% paid down at the time of subscription and the balance payable within ten months.
subsection (A) will not apply:
1. To sales of partnership interests, or joint venture interests, the issuer having made other installment arrangements acceptable to the Director of Securities.
2. To securities registered under the Investment Company Act of 1940.
3. In other unusual instances and the burden shall rest on the applicant to justify its exclusion from said provision.

Historical Note
Former Order S-10.

R14-4-111. Commissions to officers and directors

No commission or sales fee will be allowed either directly or indirectly to officers, directors or promoters of an issuer, when such issuer is a dealer in its own securities, for sale of such securities, unless such officers, directors, or promoters receive no other salary or remuneration from such issuer and do not sell securities in more than one issue at the same time.

Historical Note
Former Order S-11.

R14-4-112. Impoundment of funds

Funds held in a depository as a condition to registration shall be deposited in a national bank or a bank organized pursuant to an Act of Congress and supervised by an agency of the United States or by a state bank which is supervised and regulated by an agency of this state or of the United States. Funds so held may only be released by order of the Commission.

Historical Note
Former Order S-12.

R14-4-113. Impound dates -- application to extend
A period of one year from the date of effective registration of securities by an issuer shall ordinarily be the maximum time allowed to such issuer to obtain the funds necessary to finance the proposed enterprise outlined in the issuer's prospectus. The request of any issuer seeking a longer period of time will be looked upon with disfavor.

Historical Note
Former Order S-13.

R14-4-114. Listing of certain publications as constituting recognized manuals of securities, as used in A.R.S. § 44-1844(11)
Each of the following publications is approved by the Commission as a recognized manual of securities within the meaning of that term as used in A.R.S. § 44-1844(11):

1. Moody's Industrial Manual,
2. Moody's Municipal and Governmental Manual,
3. Moody's Transportation Manual,
4. Moody's Public Utility Manual,
5. Moody's Bank and Financing Manual,
6. Standard & Poor's Corporation Records,
7. Walker's Manual of Western Corporations.

Historical Note
Former Order S-14; Amended effective May 16, 1978 (Supp. 78-3). Amended effective July 18, 1985 (Supp. 85-4). Amended paragraph (7) effective November 19, 1987 (Supp. 87-4).

R14-4-115. Listing of national securities exchanges registered under the Securities Exchange Act of 1934, as used in A.R.S. § 44-1843(7)
Each of the following national exchanges is approved by the Commission as a recognized securities exchange within the meaning of that term as used in A.R.S. § 44-1843(7):

1. New York Stock Exchange
2. American Stock Exchange
3. Midwest Stock Exchange
4. Pacific Coast Stock Exchange
5. Philadelphia Stock Exchange
6. Chicago Board Options Exchange

Historical Note
Former Order S-15; Amended effective August 20, 1976 (Supp. 76-4). Amended effective July 18, 1985 (Supp. 85-4).

R14-4-116. Inspection of registration information
All prospectuses for registration are available for public inspection during business hours at the principal offices of the Arizona Corporation Commission, Phoenix, Arizona. Such prospectuses which are available for public inspection are those which have an effective registration date.

Historical Note
Former Order S-16.

R14-4-117. Repealed

Historical Note
Former Order S-17. Repealed effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-118. Statement required in prospectuses

A. There shall be set forth on the outside front cover page of every prospectus, printed in capital letters in bold face Roman type at least as large as 10 point modern type and at least two points leaded, whichever of the following statements shall be applicable:

"THESE SECURITIES ARE REGISTERED UNDER THE SECURITIES ACT OF ARIZONA, BUT THE FACT OF SUCH REGISTRATION IS NOT TO BE DEEMED A FINDING BY THE ARIZONA CORPORATION COMMISSION NOR THE DIRECTOR OF SECURITIES THAT THIS PROSPECTUS IS TRUE OR ACCURATE, NOR DOES SUCH REGISTRATION MEAN THAT THE COMMISSION OR THE DIRECTOR HAS PASSED UPON THE MERITS OF OR OTHERWISE APPROVED THE SECURITIES DESCRIBED HEREIN. THESE SECURITIES HAVE NOT BEEN REGISTERED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION."

or

"THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION, NOR HAS THE COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."

or

"THESE SECURITIES ARE OFFERED PURSUANT TO AN EXEMPTION FROM REGISTRATION WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION. THE COMMISSION DOES NOT PASS UPON THE MERITS OF ANY SECURITIES NOR DOES IT PASS UPON THE ACCURACY OR COMPLETENESS OF ANY OFFERING CIRCULAR OR OTHER SELLING LITERATURE."

B. There shall be set forth on the outside front cover page of every prospectus relating to securities

1. The issuer of which has not been engaged for three years in the principal business in which it is then engaged, or
2. The issuer of which has not had a net profit in any of its last three fiscal years, or
3. Which are of a value materially dependent on proposed or promised future promotion or development, rather than upon present tangible assets or conditions, or
4. In regard to a specific value of which the element of chance or hazard or speculative profit or possible loss equals or predominates over the element of reasonable certainty, safety and investment, or
5. The issuer of which has included, or proposes to include in its assets as a material part thereof, speculative intangible assets, or has issued or proposes to issue a material part of its securities in payment for speculative intangible assets (the term "speculative intangible assets" as herein used to be interpreted as referring to patents, copyrights, formulae, good will, promotion, services rendered or other intangible assets, the book value of which has not been established to the satisfaction of the Commission or in consideration of the established value of which the contributors thereof have recently been or are to be issued securities at a price per unit substantially lower than the price per unit of similar securities offered by the prospectus), or
6. Which are to be issued in furtherance or promotion of any enterprise or scheme for the sale, development or exploration of unimproved or undeveloped land or interests therein, unless the reasonable certainty, safety and invest-

ment quality thereof is established to the satisfaction of the Commission, or

7. Which consist of any undivided interest or certificate of participation based on any undivided interest in oil royalties or oil leases where the value of such interests or certificates of participation materially depends on proposed or promised future development, a statement, printed in full face Roman type at least as large as 10 point modern type and at least two points leaded, reading as follows:
"THESE ARE SPECULATIVE SECURITIES".

Historical Note
Former Order S-18.

R14-4-119. Repealed

Historical Note
Former Order S-19; Repealed effective July 30, 1986 (Supp. 86-4).

R14-4-120. Financial statements

A. Qualification of accountants
1. The Commission will not recognize any person as a certified public accountant who is not duly registered and in good standing as such under the laws of the place of his residency or principal office.
2. The Commission will not recognize any person as a public accountant who is not in good standing and entitled to practice as such under the laws of the place of his residency or principal office.
3. The Commission will not recognize any certified public accountant or public accountant as independent who is not in fact independent. An accountant will not be considered independent with respect to any person or any affiliate thereof in whom he has any financial interest direct or indirect or with whom he is or was during the period of the report connected as a promoter, underwriter, voting trustee, attorney, director, officer, or employee.

B. Accountants -- report:
1. The accountant's report shall be dated, shall have a conformed signature, shall indicate the city and state where issued, and shall identify without detailed enumeration the financial statements covered by the report.
2. The accountant's report shall state whether the audit was made in accordance with generally accepted auditing standards and shall designate any auditing procedures generally recognized as normal or deemed necessary by the accountant under the circumstances of a particular case which have been omitted and the reasons for their omission.
3. Any matters to which the accountant takes exception shall be thoroughly identified; the exception thereto specified and thoroughly stated, and to the extent practicable, the effect of such exception on the related financial statements given.
4. If, with respect to the report of the financial statements, the principal accountant relies on a financial statement by another accountant, the report of such other accountant shall be filed as part of the applicant's financial statement.

C. Opinion to be expressed. The accountant's report shall state clearly:
1. The opinion of the accountant with respect to the financial statements covered by the report and the accounting principles and practices reflected therein; and
2. The opinion of the accountant as to the consistency of the application of the accounting principles, or, as to any changes in such principles which have a material effect on the financial statements.

D. Consents. If any accountant or other professional expert has prepared or audited any report or opinion for use in connection with an application for registration or an exemption for which a filing is required, such accountant or expert must file a copy of a signed consent in connection with such filing. The consent shall be dated within 90 days of the application or filing, unless the Securities Division waives this requirement for good cause shown.

Historical Note
Former Order S-20; Amended effective August 4, 1982 (Supp. 82-4).

R14-4-121. Limitation on activities of securities salesmen

Salesmen registered to sell securities pursuant to the Securities Act will not be allowed to sell securities for any more than three registered dealers during any one six-months period, and shall not be allowed to sell securities for more than one dealer at one time.

Historical Note
Former Order S-21.

R14-4-122. Fingerprinting of salesmen

A. Prior to the registration or renewal of registration of a salesman, pursuant to the provisions of the Securities Act, the Commission may require the applicant to be fingerprinted, at a time and place specified by the Commission, in order for the Commission to specifically check into the background of the applicant.

B. Persons registered pursuant to the Arizona Securities Act continuously for the past five consecutive years preceding July 1, 1965 shall be exempt from this rule.

Historical Note
Former Order S-22; Amended subsection (A) effective July 18, 1985 (Supp. 85-4).

R14-4-123. Financial information required by applicants for exemptions

To a petition filed pursuant to A.R.S. § 44-1846, or as part of a Notice of Intention to Sell Securities pursuant to rule R14-4-101 or Rule R14-4-102, there shall be attached as an exhibit financial statements consisting of a balance sheet as of a date within 90 days of the petition and statements of operations, stockholders' equity and retained earnings, and changes in financial position for each of the preceding three years or for such lesser period as the issuer has been engaged in business. Such financial statements shall be prepared in accordance with generally accepted accounting principles and shall be:

1. Verified under oath, upon information and belief, by an officer, a general partner, a joint venturer, a trustee, or the sole proprietor of the issuer, whichever is appropriate depending upon its form of organization, by a statement which shall include the statements that:
   a. The accompanying financial statements present fairly the issuer's financial position on the dates indicated and the results of the issuer's operations and changes in financial position for the periods indicated; and that
   b. Such person has no knowledge of any material fact which would adversely affect the financial condition, results of operations and changes in financial position of such issuer as disclosed in such financial statements; or
2. Audited by an independent public or certified independent public accountant, in which case such statements need not be as of a date within 90 days of the petition but

may be as of a date within one year of the petition, provided that such audited statements are accompanied by unaudited interim statements as of the date within 90 days of the date of the petition.

Historical Note
Former Order S-23; Amended effective July 18, 1985 (Supp. 85-4).

R14-4-124. Net worth requirements for registration by description of commodity investment contracts or commodity option contracts

A. An applicant for registration by description of commodity investment contracts or commodity option contracts pursuant to A.R.S. § 44-1871, shall file a financial statement, prepared within 90 days of the date of application, which indicates to the satisfaction of the Arizona Corporation Commission a net worth of not less than $75,000.00. Any money, property or other thing of value utilized by the applicant in order to comply with the bonding requirements of A.R.S. § 44-1943, relating to registration as a Dealer in securities, shall be excluded from the computation of net worth.

B. The net worth requirements prescribed herein shall be maintained throughout the period of registration by description and shall be considered a condition thereof.

Historical Note
Former General Order S-24 not in original publication, correction (Supp. 75-1).

R14-4-125. Commodities exchanges recognized for purposes of A.R.S. § 44-1844(13)

Commodities exchanges recognized by the Arizona Corporation Commission for purposes of the exemption prescribed by A.R.S. § 44-1844(13), are as follows:

1. Domestic
   a. Coffee, Sugar and Cocoa Exchange
      4 World Trade Center
      New York, NY 10048
   b. Commodity Exchange Inc. CMX
      4 World Trade Center
      New York, NY 10048
   c. New York Mercantile Exchange
      4 World Trade Center
      New York, NY 10048
   d. Chicago Mercantile Exchange & International Money Market
      444 West Jackson Blvd.
      Chicago, IL 60606
   e. Chicago Board of Trade
      141 W. Jackson Blvd.
      Chicago, IL 60604
   f. MidAmerica Commodity Exchange
      175 West Jackson Blvd.
      Chicago, IL 60604
2. Foreign
   a. The London Metals Exchange
      Plantation House, Fenchurch Street
      EC3 LONDON, ENGLAND
   b. The United Terminal Sugar Market Association
      58 Mark Lane
      EC3R 7NE LONDON, ENGLAND
   c. The London Cocoa Terminal
      58 Mark Lane
      EC3R 7NE LONDON, ENGLAND
   d. The Coffee Terminal Market Association
      58 Mark Lane
      EC3R 7NE LONDON, ENGLAND

Historical Note
Former General Order S-25 not in original publication, correction, Amended effective June 3, 1975 (Supp. 75-1). Amended effective July 18, 1985 (Supp. 85-4).

Editor's Note: The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)), as determined by the Corporation Commission. This exemption means that this rule as amended was not certified by the Attorney General.

R14-4-126. Limited Offerings

A. The following rule relates to transactions exempted from the registration requirements of A.R.S. §§ 44-1841 and 44-1842.

1. Attempted compliance with any part of this rule does not act as an exclusive election. This rule is not available to any issuer for any transaction or chain of transactions that, although in technical compliance with the rule, is part of a plan or scheme to evade the registration provisions of the Arizona Securities Act (the "Securities Act"). The rule may be used for business combinations that involve sales by virtue of Rule 145(a) under the Securities Act of 1933 or otherwise.
2. Securities may be offered and sold outside the United States in accordance with Regulation S under the Securities Act of 1933 and pursuant to an applicable registration or exemption under the Securities Act even if coincident offers and sales are made inside the United States in accordance with Regulation D and this rule. Thus, for example, persons who are offered and sold securities from Arizona in accordance with Regulation S would not be counted in the calculation of the number of purchasers under this rule if the securities are registered or otherwise exempt under the Securities Act (such as exempt under A.R.S. § 44-1844(A)(19)). Similarly, proceeds from such sales would not be included in the aggregate offering price. These provisions, however, do not apply if the issuer elects to rely solely on Regulation D and this rule for offers or sales to persons made outside the United States.
3. Incorporation by reference. The following statutes, rules, regulations, and forms are incorporated herein by reference and on file with the office of the Secretary of State:
   a. Under the Securities Act of 1933: Section 2(13), 15 U.S.C. 77b(13) (1988) ("Section 2(13) of the Securities Act of 1933"); Section 3(a)(2), 15 U.S.C 77c(a)(2) (1988) ("Section 3(a)(2) of the Securities Act of 1933"); Section 3(a)(5)(A), 15 U.S.C. 77c(a)(5)(A) (1988) ("Section 3(a)(5)(A) of the Securities Act of 1933"); Section 4(2), 15 U.S.C. 77d(2) (1988) ("Section 4(2) of the Securities Act of 1933"); Rule 145(a), 17 CFR 230.145(a) (1994) ("Rule 145(a) under the Securities Act of 1933"); Rule 405, 17 CFR 230.405 (1994) ("Rule 405 under the Securities Act of 1933"); Regulation A, 17 CFR 230.251 to 230.263 (1994) ("Regulation A"); Regulation D, 17 CFR 230.501 to 230.508 (1994) ("Regulation D"); Regulation S, 17 CFR 230.901 to 230.904 (1994) ("Regulation S"); Item 310 of Regulation S-B, 17 CFR 228.310 (1994) ("Item 310 of Regulation S-B"); Part II of Form 1-A, 17 CFR 239.90 (1994) ("Part II of Form 1-A"); Form S-1, 17 CFR 239.11 (1994) ("Form S-1"); Form SB-1, 17 CFR 239.9 (1994) ("Form SB-1"); Form SB-2, 17 CFR 239.10 (1994) ("Form SB-2"); Form S-11, 17

CFR 239.18 (1994) ("Form S-11"); Form S-4, 17 CFR 239.25 (1994) ("Form S-4"); Form D, 17 CFR 239.500 (1994) ("Form D"); Form F-1, 17 CFR 239.31 (1994) ("Form F-1");

b. Under the Securities Exchange Act of 1934: Section 13, 15 U.S.C. 78m (1988 & Supp.V 1993) ("Section 13 of the Securities Exchange Act of 1934"); Section 13(a), 15 U.S.C 78m(a) (1988) ("Section 13(a) of the Securities Exchange Act of 1934"); Section 14(a), 15 U.S.C. 78n(a) (1988) ("Section 14(a) of the Securities Exchange Act of 1934"); Section 14(c), 15 U.S.C. 78n(c) (1988 & Supp.V 1993) ("Section 14(c) of the Securities Exchange Act of 1934"); Section 15, 15 U.S.C. 78o (1988 & Supp.V 1993) ("Section 15 of the Securities Exchange Act of 1934"); Section 15(d), 15 U.S.C. 78o(d) (1988) ("Section 15(d) of the Securities Exchange Act of 1934"); Rule 14a-3, 17 CFR 240.14a-3 (1994) ("Section 240.14a-3 under the Securities Exchange Act of 1934"); Rule 14c-3, 17 CFR 240.14c-3 (1994) ("Section 240.14c-3 under the Securities Exchange Act of 1934"); Form 10-K, 17 CFR 249.310 (1994) ("Form 10-K"); Form 10-KSB, 17 CFR 249.310b (1994) ("Form 10-KSB"); Form 10-SB, 17 CFR 249.210b (1994) ("Form 10-SB"); Form 10, 17 CFR 240.210 (1994) ("Form 10"); Form 20-F, 17 CFR 249.220f (1994) ("Form 20-F");

c. Investment Company Act of 1940, 15 U.S.C. 80a-1 to 80a-64 (1988 & Supp. V 1993) ("Investment Company Act of 1940") and Section 2(a)(48) of the Investment Company Act of 1940, 15 U.S.C. 80a-2(a)(48) (1988) ("Section 2(a)(48) of the Investment Company Act of 1940");

d. Sections 301(c) and 301(d) of the Small Business Investment Act of 1958, 15 U.S.C. 681(c) and 681(d) (1988) ("Section 301(c) or (d) of the Small Business Investment Act of 1958");

e. Title I of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001 to 1169 (1988 & Supp.V 1993) ("Title I of the Employee Retirement Income Security Act of 1974") and Section 3(21) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1002(21) (1988) ("Section 3(21) of the Employee Retirement Income Security Act of 1974");

f. Investment Advisers Act of 1940, 15 U.S.C. 80b-1 to 80b-21 (1988 & Supp. V 1993) ("Investment Advisers Act of 1940") and Section 202(a)(22) of the Investment Advisers Act of 1940, 15 U.S.C. 80b-2(a)(22) (1988) ("Section 202(a)(22) of the Investment Advisers Act of 1940");

g. Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. 501(c)(3) (1988) ("Section 501(c)(3) of the Internal Revenue Code").

B. Definitions and terms. As used in this rule, the following terms shall have the meaning indicated:

1. "Accredited investor". "Accredited investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

a. Any bank as defined in Section 3(a)(2) of the Securities Act of 1933, or any savings and loan association or other institution as defined in Section 3(a)(5)(A) of the Securities Act of 1933 whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934; any insurance company as defined in Section 2(13) of the Securities Act of 1933; any investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of that Act; Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958; any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees, if such plan has total assets in excess of $5,000,000; any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, if the investment decision is made by a plan fiduciary, as defined in Section 3(21) of such Act, which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if the employee benefit plan has total assets in excess of $5,000,000 or, if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

b. Any private business development company as defined in Section 202(a)(22) of the Investment Advisers Act of 1940;

c. Any organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of $5,000,000;

d. Any director, executive officer, or general partner of the issuer of the securities being offered or sold, or any director, executive officer, or general partner of a general partner of that issuer;

e. Any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his purchase exceeds $1,000,000;

f. Any natural person who had an individual income in excess of $200,000 in each of the two most recent years or joint income with that person's spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year;

g. Any trust, with total assets in excess of $5,000,000 not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in subsection (F)(2)(b) of this rule; and

h. Any entity in which all of the equity owners are accredited investors.

2. "Affiliate". An "affiliate" of, or person "affiliated" with, a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

3. "Aggregate offering price". "Aggregate offering price" shall mean the sum of all cash, services, property, notes, cancellation of debt, or other consideration to be received by an issuer for issuance of its securities. Where securities are being offered for both cash and non-cash consideration, the aggregate offering price shall be based on the price at which the securities are offered for cash. Any portion of the aggregate offering price attributable to cash

received in a foreign currency shall be translated into United States currency at the currency exchange rate in effect at a reasonable time prior to or on the date of the sale of the securities. If securities are not offered for cash, the aggregate offering price shall be based on the value of the consideration as established by bona fide sales of that consideration made within a reasonable time, or, in the absence of sales, on the fair value as determined by generally accepted accounting principles. Such valuations of noncash consideration must be reasonable at the time made.

4. "Business combination". "Business combination" shall mean any transaction of the type specified in paragraph (a) of Rule 145 under the Securities Act of 1933 and any transaction involving the acquisition by one issuer, in exchange for all or a part of its own or its parent's stock, of stock of another issuer if, immediately after the acquisition, the acquiring issuer has control of the other issuer (whether or not it had control before the acquisition).
5. "Calculation of number of purchasers". For purposes of calculating the number of purchasers under subsections (E) and (F) of this rule, the following shall apply:
   a. The following purchasers shall be excluded:
      i. Any relative, spouse or relative of the spouse of a purchaser who has the same principal residence as the purchaser;
      ii. Any trust or estate in which a purchaser and any of the persons related to him as specified in subsections (B)(5)(a)(i) or (iii) collectively have more than 50% of the beneficial interest (excluding contingent interests);
      iii. Any corporation or other organization of which a purchaser and any of the persons related to him as specified in subsections (B)(5)(a)(i) or (ii) collectively are beneficial owners of more than 50% of the equity securities (excluding directors' qualifying shares) or equity interests; and
      iv. Any accredited investor.
   b. A corporation, partnership or other entity shall be counted as one purchaser. If, however, that entity is organized for the specific purpose of acquiring the securities offered and is not an accredited investor under subsection (B)(1)(h), then each beneficial owner of equity securities or equity interests in the entity shall count as a separate purchaser for all provisions of this rule except to the extent provided in subsection (B)(5)(a).
   c. A non-contributory employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 shall be counted as one purchaser where the trustee makes all investment decisions for the plan.
      Note. The issuer must satisfy all of the other provisions of this rule for all purchasers whether or not they are included in calculating the number of purchasers. Clients of an investment adviser or customers of a broker or dealer shall be considered the "purchasers" under this rule regardless of the amount of discretion given to the investment adviser or broker or dealer to act on behalf of the client or customer.
6. "Executive officer". "Executive officer" shall mean the president, any vice president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function, or any other person who performs similar policy-making functions for the issuer. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy-making functions for the issuer.
7. "Issuer". "Issuer" shall be as defined in A.R.S. § 44-1801.
8. "Purchaser representative". "Purchaser representative" shall mean any person who satisfies all of the following conditions or who the issuer reasonably believes satisfies all of the following conditions:
   a. Is not an affiliate, director, officer or other employee of the issuer, or beneficial owner of ten percent or more of any class of the equity securities or ten percent or more of the equity interest in the issuer, except where the purchaser is:
      i. A relative of the purchaser representative by blood, marriage or adoption and not more remote than a first cousin;
      ii. A trust or estate in which the purchaser representative and any persons related to him as specified in subsections (B)(8)(a)(i) or (iii) collectively have more than 50% of the beneficial interest (excluding contingent interest) or of which the purchaser representative serves as trustee, executor, or in any similar capacity; or
      iii. A corporation or other organization of which the purchaser representative and any persons related to him as specified in subsections (B)(8)(a)(i) or (ii) collectively are the beneficial owners of more than 50% of the equity securities (excluding directors' qualifying shares) or equity interests;
   b. Has such knowledge and experience in financial and business matters that he is capable of evaluating, alone or together with other purchaser representatives of the purchaser or together with the purchaser, the merits and risks of the prospective investment;
   c. Is acknowledged by the purchaser in writing, during the course of the transaction, to be his purchaser representative in connection with evaluating the merits and risks of the prospective investment; and
   d. Discloses to the purchaser in writing a reasonable time prior to the sale of securities to that purchaser any material relationship between himself or his affiliates and the issuer or its affiliates that then exists, that is mutually understood to be contemplated, or that has existed at any time during the previous two years, and any compensation received or to be received as a result of such relationship.
9. Note 1. A person acting as a purchaser representative should consider the applicability of the registration and anti-fraud provisions:
   a. Relating to brokers and dealers under the Securities Exchange Act of 1934 and dealers under the Securities Act (See R14-4-104(A)(7) with respect to dealer registration in Arizona), and
   b. Relating to investment advisers under the Investment Advisers Act of 1940 and the Arizona Investment Management Act, A.R.S. § 44-3101 et seq.
10. Note 2. The acknowledgment required by subsection (B)(8)(c) and the disclosure required by subsection (B)(8)(d) must be made with specific reference to each prospective investment. Advance blanket acknowledgment, such as for "all securities transactions" or "all private placements", is not sufficient.

11. Note 3. Disclosure of any material relationships between the purchaser representative or his affiliates and the issuer or its affiliates does not relieve the purchaser representative of his obligation to act in the interest of the purchaser.

C. General conditions to be met. The following conditions shall be applicable to offers and sales made under this rule:

1. Integration. All sales that are part of the same Rule R14-4-126 offering must meet all of the terms and conditions of this rule. Offers and sales that are made more than six months before the start of a Rule R14-4-126 offering or are made more than six months after completion of a Rule R14-4-126 offering will not be considered part of that Rule R14-4-126 offering, so long as during those six month periods there are no offers or sales of securities by or for the issuer that are of the same or a similar class as those offered or sold under this rule, other than those offers or sales of securities under an employee benefit plan as defined in Rule 405 under the Securities Act of 1933.
   a. Note 1. The term "offering" is not defined in the Securities Act or in this rule. If the issuer offers or sells securities for which the safe harbor rule in subsection (C)(1) is unavailable, the determination as to whether separate sales of securities are part of the same offering (i.e., are considered "integrated") depends on the particular facts and circumstances.
   b. Generally, transactions otherwise meeting the requirements of an exemption will not be integrated with simultaneous offerings being made outside the United States that are in compliance with Regulation S and are registered or otherwise exempt under the Securities Act.
   c. The following factors should be considered in determining whether offers and sales should be integrated for purposes of the exemptions under this rule:
      i. Whether the sales are part of a single plan of financing;
      ii. Whether the sales involve issuance of the same class of securities;
      iii. Whether the sales have been made at or about the same time;
      iv. Whether the same type of consideration is received; and
      v. Whether the sales are made for the same general purpose.
   d. Note 2. In determining whether offers and sales should be integrated for purposes of the exemptions under this rule, issuers should consider relevant Arizona rules and court decisions, federal court decisions, and Securities and Exchange Commission rules and regulations.
2. Information requirements.
   a. When information must be furnished.
      i. If the issuer sells securities only to accredited investors, subsection (C)(2) does not require that specific information be furnished to purchasers.
      ii. If the issuer sells securities to any purchaser that is not an accredited investor, the issuer shall furnish the information specified in subsection (C)(2)(b) to such purchaser a reasonable time prior to sale. The issuer is not required to furnish the specified information to any accredited investor.
      iii. Note. When an issuer provides information to investors pursuant to subsection (C)(2)(b)(i), it should consider providing such information to accredited investors as well, in view of the antifraud provisions of the federal securities laws and of the Securities Act.
   b. Type of information to be furnished.
      i. If the issuer is not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser, to the extent material to an understanding of the issuer, its business, and the securities being offered:
         (1) Non-financial statement information. If the issuer is eligible to use Regulation A, the same kind of information as would be required in Part II of Form 1-A. If the issuer is not eligible to use Regulation A, the same kind of information as required in Part I of a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use.
         (2) Financial Statement Information.
            (a) Offerings up to $2,000,000. The information required in Item 310 of Regulation S-B, except that only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited.
            (b) Offerings up to $7,500,000. The financial statement information required in Form SB-2. If an issuer, other than a limited partnership, cannot obtain audited financial statements without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.
            (c) Offerings over $7,500,000. The financial statement as would be required in a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use. If an issuer, other than a limited partnership, cannot obtain audited financial statements

without unreasonable effort or expense, then only the issuer's balance sheet, which shall be dated within 120 days of the start of the offering, must be audited. If the issuer is a limited partnership and cannot obtain the required financial statements without unreasonable effort or expense, it may furnish financial statements that have been prepared on the basis of federal income tax requirements and examined and reported on in accordance with generally accepted auditing standards by an independent public or certified accountant.

(d) If the issuer is a foreign private issuer eligible to use Form 20-F under the Securities Act of 1933, the issuer shall disclose the same kind of information required to be included in a registration statement filed under the Securities Act of 1933 on the form that the issuer would be entitled to use. The financial statements need be certified only to the extent required by subsection (C)(2)(b)(i)(2)(a), (b), or (c) as appropriate.

ii. If the issuer is subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, at a reasonable time prior to the sale of securities the issuer shall furnish to the purchaser the information specified in subsection (C)(2)(b)(ii)(1) or (2), and in either event the information specified in subsection (C)(2)(b)(ii)(3):

(1) The issuer's annual report to shareholders for the most recent fiscal year, if such annual report meets the requirements of Section 240.14a-3 or 240.14c-3 under the Securities Exchange Act of 1934, the definitive proxy statement filed in connection with that annual report, and, if requested by the purchaser in writing, a copy of the issuer's most recent Form 10-K and Form 10-KSB under the Securities Exchange Act of 1934.

(2) The information contained in an annual report on Form 10-K or Form 10-KSB under the Securities Exchange Act of 1934 or in a registration statement on Form S-1, SB-1, SB-2, or S-11 under the Securities Act of 1933 or on Form 10 or Form 10-SB under the Securities Exchange Act of 1934, whichever filing is the most recent required to be filed.

(3) The information contained in any reports or documents required to be filed by the issuer under Sections 13(a), 14(a), 14(c), and 15(d) of the Securities Exchange Act of 1934 since the distribution or filing of the report or registration statement specified in subsections (C)(2)(b)(ii)(1) or (2), and a brief description of the securities being offered, the use of the proceeds from the offering, and any material changes in the issuer's affairs that are not disclosed in the documents furnished.

(4) If the issuer is a foreign private issuer, the issuer may provide, in lieu of the information specified in subsection (C)(2)(b)(ii)(1) or (2), the information contained in its most recent filing on Form 20-F under the Securities Exchange Act of 1934 or Form F-1 under the Securities Act of 1933.

iii. Exhibits required to be filed with the Securities and Exchange Commission as part of a registration statement or report, other than an annual report to shareholders or parts of that report incorporated by reference in a Form 10-K and Form 10-KSB report, need not be furnished to each purchaser that is not an accredited investor if the contents of material exhibits are identified and such exhibits are made available to a purchaser, upon his written request, a reasonable time prior to his purchase.

iv. At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under subsections (E) or (F), the issuer shall furnish to the purchaser a brief description in writing of any material written information concerning the offering that has been provided by the issuer to any accredited investor but not previously delivered to such non-accredited purchaser. The issuer shall furnish any portion or all of this information to the purchaser, upon his written request, a reasonable time prior to his purchase.

v. The issuer shall also make available to each purchaser at a reasonable time prior to his purchase of securities in a transaction under subsections (E) or (F) the opportunity to ask questions and receive answers concerning the terms and conditions of the offering and to obtain any additional information which the issuer possesses or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of information furnished under subsection (C)(2)(b)(i) or (ii).

vi. For business combinations or exchange offers, in addition to information required by Form S-4, the issuer shall provide to each purchaser at the time the plan is submitted to security holders, or, with an exchange, during the course of the transaction and prior to sale, written information about any terms or arrangements of the proposed transactions that are materially different from those for all other security holders. For purposes of this subsection, an issuer which is not subject to the reporting requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 may satisfy the requirements of Part I.B. or C. of Form S-4 by compliance with subsection (C)(2)(b)(i).

vii. At a reasonable time prior to the sale of securities to any purchaser that is not an accredited investor in a transaction under subsection (E) or

(F), the issuer shall advise the purchaser of the limitations on resale in the manner contained in subsection (C)(4)(b). Such disclosure may be contained in other materials required to be provided by this subsection (C)(2).

3. Limitation on manner of offering. Neither the issuer nor any person acting on its behalf shall offer or sell the securities by any form of general solicitation or general advertising, including, but not limited to, the following:
   a. Any advertisement, article, notice or other communication published in any newspaper, magazine, or similar media or broadcast over television or radio; and
   b. Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.
4. Limitations on resale. Securities acquired in a transaction under this rule shall have the status of securities acquired in an exempt transaction under A.R.S. § 44-1844 of the Securities Act and cannot be resold without registration under the Securities Act or an exemption therefrom. The issuer shall exercise reasonable care to assure that the purchasers of the securities are not underwriters within the meaning of A.R.S. § 44-1801 of the Securities Act. Such reasonable care may be demonstrated by the following:
   a. Reasonable inquiry to determine if the purchaser is acquiring the securities for himself or for other persons;
   b. Written disclosure to each purchaser prior to sale that the securities have not been registered under the Securities Act and, therefore, cannot be resold unless they are registered under the Securities Act or unless an exemption from registration is available; and
   c. Placement of a legend on the certificate or other document that evidences the securities stating that the securities have not been registered under the Securities Act and setting forth or referring to the restrictions on transferability and sale of the securities.
   d. Note. While taking these actions will establish the requisite reasonable care, it is not the exclusive method to demonstrate such care. Other actions by the issuer may satisfy this provision. In addition, subsection (C)(2)(b)(vii) requires the delivery of written disclosure of the limitations on resale to investors in certain instances.

D. Filing of notice of sales and fees.
1. The issuer shall file with the Commission one copy of a notice on Form D at the following times:
   a. No later than 15 days after the first sale of securities in this state in an offering under this rule; and
   b. No later than 30 days after the termination of an offering under this rule; provided, however, that non-compliance with this subsection (D)(1)(b) shall not result in the loss of the exemption under this rule, if the issuer has complied with the filing requirements of subsection (D)(1)(a). If the Arizona Securities Division sends a written request to an issuer to file a final Form D, the issuer shall deliver a final Form D to the Arizona Securities Division within 30 days of receipt of such request. No exemption under this rule shall be available for an issuer if such issuer, any of its predecessors or affiliates have been subject to any order, judgment or decree of the Commission or any other court of competent jurisdiction temporarily, preliminarily or permanently enjoining such person for failure to comply with the filing requirements of this subsection; provided, however, that the loss of exemption shall not apply if the Commission determines upon a showing of good cause that is not necessary under the circumstances that the exemption be denied.
2. If the offering is completed within the 15-day period described in subsection (D)(1)(a) and if the notice is filed no later than the end of that period but after the completion of the offering, then only one notice need be filed to comply with subsections (D)(1)(a) and (b).
3. The notice on Form D shall contain a manual or facsimile signature of a person duly authorized by the issuer.
4. If sales are made under subsection (E), the notice shall contain an undertaking by the issuer to furnish to the Commission, upon the written request of its staff, the information furnished by the issuer under subsection (C)(2)(b) to any purchaser that is not an accredited investor.
5. If more than one notice for an offering is required to be filed under subsection (D)(1), notices after the first notice need only report the issuer's name and the information required by Part C and any material change in the facts from those set forth in Parts A and B of the first notice.
6. A notice on Form D shall be considered filed with the Commission:
   a. Upon receipt at its Phoenix office.
   b. As of the date on which the notice is mailed by means of United States registered or certified mail to the Commission's Phoenix office if the notice is delivered to such office after the date on which it is required to be filed.
7. Issuer shall pay the fee prescribed by A.R.S. § 44-1861(E).

E. Limited offers and sales not exceeding $5,000,000.
1. Exemption. Offers and sales of securities that satisfy the conditions in subsection (E)(2) by an issuer that is not an investment company under the Investment Company Act of 1940 shall be added to the class of transactions exempt under A.R.S. § 44-1844.
2. Conditions and limitations.
   a. General conditions. To qualify for exemption under this subsection (E), offers and sales must satisfy the terms and conditions of subsections (B) through (D).
   b. Limitation on aggregate offering price. The aggregate offering price for an offering of securities under this subsection (E) shall not exceed $5,000,000, less the aggregate offering price for all securities sold within the 12 months before the start of and during such offering of securities in reliance on this subsection (E) or in violation of A.R.S. § 44-1841.
   c. Limitation on number of purchasers. There are no more than, or the issuer reasonably believes that there are no more than, 35 purchasers of securities from the issuer in any offering under this subsection (E).
3. Disqualification. No exemption under this subsection (E) shall be available for the securities of any issuer, if it or any of its predecessors, affiliates, directors, officers, general partners, or beneficial owners of ten percent or more of any class of its equity securities, or the underwriter of such securities:
   a. Has been convicted within the ten years preceding the filing of the notice required by this rule, or at any time thereafter prior to the termination of the offer-

ing, of a felony or misdemeanor involving racketeering or a transaction in securities, or of which fraud is an essential element;

b. Is subject to an order, judgment, or decree of any court of competent jurisdiction entered within five years of the date of filing of the notice required by this rule, temporarily, preliminarily, or permanently enjoining or restraining it or him from engaging in or continuing any conduct or practice in connection with the sale or purchase of securities, or involving fraud, deceit, or racketeering;

c. Has been subject to any state or federal administrative order or judgment in connection with the purchase or sale of securities entered within five years preceding the filing of the notice required by this rule, or at any time thereafter prior to the termination of the offering.

d. Is subject to the reporting requirements of the Securities Exchange Act of 1934 and has not filed all required reports during the 12 calendar months preceding the filing of the notification required by subsection (D)(1) of this rule.

e. Is subject to an order of the Securities and Exchange Commission denying or revoking registration as a broker or dealer in securities under the Securities Exchange Act of 1934, or is subject to an order denying or revoking membership in a national securities association registered under the Securities Exchange Act of 1934, or has been suspended for a period exceeding six months or expelled from membership in a national securities exchange registered under the Securities Exchange Act of 1934.

f. The Commission may, at its discretion, waive any disqualification caused by this subsection (E). A disqualification caused by subsection (E) ceases to exist if:

i. The basis for the disqualification has been removed by the jurisdiction creating it;

ii. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification; or

iii. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

F. Private offerings without regard to dollar limitations.

1. Conditions to be met. Offers to sell or sales of securities by the issuer thereof that are part of an offering complying with all the conditions of subsections (B) through (D) and this subsection (F) shall be deemed to be "transactions by an issuer not involving any public offering" within the meaning of A.R.S. § 44-1844(A)(1). Issuers may make private offerings without compliance with this subsection (F) provided such offerings completely satisfy the criteria set forth in Arizona court decisions interpreting A.R.S. § 44-1844(A)(1) and in federal court decisions interpreting Section 4(2) of the Securities Act of 1933. Issuers are cautioned, however, that in all instances in which availability of an exemption from registration under the Securities Act is claimed, the claimant has the burden of proving that the exemption claimed is available to him. This subsection (F) does not shift such burden.

2. Specific conditions.

a. Limitation on number of purchasers. There are no more than, or the issuer reasonably believes that there are no more than, 35 purchasers of securities from the issuer in any offering under this subsection (F).

b. Nature of purchasers. Each purchaser who is not an accredited investor either alone or with his purchaser representative(s) has such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment, or the issuer reasonably believes immediately prior to making any sales that such purchaser comes within this description.

G. Disqualifying provision relating to exemptions under subsections (E) and (F).

1. No exemption under subsections (E) and (F) shall be available for an issuer if such issuer, any of its predecessors, or affiliates have been subject to any order, judgment, or decree of any court of competent jurisdiction temporarily, preliminarily, or permanently enjoining such person, or any final order of an administrative agency directing such person to cease and desist for failure to comply with subsection (D) or its counterpart, if any, in such jurisdiction.

2. The Commission may, at its discretion, waive any disqualification caused by subsection (G)(1).

3. A disqualification caused by subsection (G)(1) ceases to exist if:

a. The basis for the disqualification has been removed by the jurisdiction creating it;

b. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification; or

c. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

H. Insignificant deviations from a term, condition, or requirement.

1. A failure to comply with a term, condition, or requirement of subsections (E) or (F) will not result in the loss of the exemption from the requirements of A.R.S. § 44-1841 or A.R.S. § 44-1842 for any offer or sale to a particular individual or entity, if the person relying on the exemption shows:

a. The failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity; and

b. The failure to comply was insignificant with respect to the offering as a whole, provided that any failure to comply with subsections (C)(3), (E)(2)(b), (E)(2)(c), and (F)(2)(a) shall be deemed to be significant to the offering as a whole; and

c. A good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of subsections (E) and (F).

2. Notwithstanding subsection (H)(1), an exemption established only through reliance upon subsection (H)(1) shall constitute a violation of this rule. In such event, the Commission may take action under A.R.S. §§ 44-2032 and 44-2036 for a violation of this rule.

Historical Note

Adopted as General Order S-26 effective July 25, 1975 (Supp. 75-1). Former Section R14-4-126 repealed, new Section R14-4-126 adopted effective December 28, 1982 (Supp. 82-6). Amended effective November 30, 1989 (Supp. 89-4). Amended effective June 9, 1995, under an exemption from the Attorney General certification requirements of the Arizona Administrative Procedure Act (Supp. 94-2).

R14-4-127. Guidelines for securities filings pursuant to A.R.S. § 44-1846

A. Petition for exemption. A petition for exemption from registration pursuant to A.R.S. § 44-1846 shall be filed in writing by the proposed issuer and shall contain specific facts demonstrating why registration is not essential to the public interest or the protection of the investors. The petition shall indicate and explain in detail which one or more of the following reasons are relied upon for the exemption.

1. The special characteristics of the securities or transactions.
2. The limited character and duration of the offering.
3. The special characteristics or limited number of offerees or investors.

No offer, sale, exchange or distribution of the securities may be made pursuant to A.R.S. § 44-1846 until a written order granting said exemption has been entered by the Commission.

B. Disclosure document. A disclosure document must be filed with the petition for exemption in a form complying with the terms of this rule. The disclosure document shall contain all material facts relating to the proposed issue and shall not omit to state any material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, including without limitation the investment objectives, a description of the type of person who could benefit from the investment, the suitability standards to be applied as required under subsection (D), the legend required under subsection (G), and the information required for a prospectus pursuant to A.R.S. § 44-1894, paragraphs (1) through (5), (7) and (8).

The disclosure document shall be delivered to all offerees and must be received by a purchaser at least 72 hours prior to the sale of any securities pursuant to an order of exemption issued under A.R.S. § 44-1846.

C. Financial statement. The financial statements as required by R14-4-123 must be included in the disclosure document and all terms of R14-4-123 apply to financial statements under this rule except that such financial statements need not be certified. All financial statements must be prepared in accordance with generally accepted accounting principles.

D. Investor suitability standards. Petitions for exemption orders under this rule shall include prepared minimum investor suitability standards concerning the persons to whom the securities will be offered. The standards may consist of one or more of the following criteria: minimum net worth, minimum income and income tax bracket. Standards may be stated in the alternative. The Commission will review these standards and approve or modify them. The review will be based on the existence of such factors as, without limitation, liquidity, risk, transferability, specific tax shelter orientation of the investment, leverage, compensation of promoter, cash flow, conflict of interest, unproven nature of the product or mineral or oil reserves, lack of business history, management experience, and financial stability.

E. Final confidential report of the offering. A final report to the Commission must be made within 30 days after the conclusion of the offering verified under oath by a company officer which includes the following information:

1. Names and addresses of purchasers, number of shares purchased, date and amount paid;
2. Occupations of purchasers;
3. An affidavit by the issuer that purchasers have affirmed in writing that they meet the suitability standards set forth in the Order of Exemption.

The final report will be in the nature of investigative material received by the Securities Division for purposes of ascertaining adherence to the suitability requirement.

F. Sales completion. Sales made under Orders of Exemption pursuant to A.R.S. § 44-1846 and this rule must be completed on or before one year from the date exemption is granted. In the event sales are not completed, a new application must be submitted for approval, which shall be treated as if it were an original filing.

G. Legend on disclosure document. There shall be set forth on the outside front cover page of every disclosure document used in connection with the offer or sale of securities pursuant to A.R.S. 44-1846, printed in capital letters in bold-face Roman type at least as large as a ten-point modern type and at least two points leaded the following statement: THESE SECURITIES HAVE BEEN EXEMPTED FROM REGISTRATION PURSUANT TO A.R.S. 44-1846 BUT THE FACT OF THE GRANTING OF SUCH EXEMPTION IS NOT TO BE DEEMED A FINDING BY THE ARIZONA CORPORATION COMMISSION THAT THIS DISCLOSURE DOCUMENT IS TRUE OR ACCURATE, NOR DOES SUCH GRANT OR EXEMPTION MEAN THAT THE COMMISSION HAS PASSED UPON THE MERITS OF OR OTHERWISE APPROVED THE SECURITIES DESCRIBED THEREIN.

H. Promotional securities and promoters equity. The provisions of rules R14-4-105 and R14-4-107 of the Arizona Compilation of Administrative Rules and Regulations will be applied to exemptions under this rule where in the opinion of the Commission the imposition of such restrictions is necessary because of the speculative nature of the offerings. The Commission may approve filings under A.R.S. § 44-1846 where promotional securities exceed 15% of the securities to be outstanding at the completion of the proposed offering in exceptional circumstances and upon good cause shown. The Commission may in its discretion in exceptional circumstances only, approve applications under this rule where promoters equity is less than the percentages in R14-4-107.

I. Prohibition against advertising and sales commission. There shall be no public advertising by radio, television, newspaper, or printed literature for any offering made under this rule. There shall be no remuneration other than transfer agent's fees paid directly or indirectly to any salesman, underwriter, officer, director or employee of the entity making the filing or any other person for sales under this rule.

J. Limited number of purchasers. Offerings under this rule will be limited to 35 purchasers except in highly unusual circumstances where the number of purchasers cannot in any event exceed 50, if in the opinion of the Commission the circumstances justify up to 50 purchasers. The number of offerees is not limited so long as each offeree is provided with a disclosure document as the exclusive written sales information.

K. Integration with other offerings. Exemptions under this rule will be granted only once in a six-month period for any corporation, subsidiary, affiliate or partnership using the rule. Offerings made under this rule by entities controlled by, controlling, or under common control with the entity seeking the exemption within a six-month period prior to the filing of the exemption will preclude its use. Offerings under this rule will be prohibited where the maximum dollar amount allowed under the statute is exceeded by integration with other offerings within the prior six months under R14-4-101 and R14-4-102 and registration by description or qualification where the securities sold under this rule are part of the same program of financing by virtue of identity of the use of the proceeds, simi-

larity in the method of offering, identity of purchasers, and similarity of security offered.

L. Impound account. Proceeds of offerings under this rule may be impounded by order of the Commission under the same guidelines and conditions set forth in A.R.S. § 44-1878 and may be released from impound back to investors after notice and opportunity for hearing is afforded to the entity which was granted the exemption.

M. Revocation or denial of exemption. An order denying a petition for exemption under A.R.S. § 44-1846 and this rule, or suspending an exemption previously issued by the Commission pursuant to A.R.S. § 44-1846 and this rule may be issued after notice and opportunity for hearing in accordance with A.R.S. § 44-1972, for any grounds set forth in A.R.S. § 44-1921 or for any violation of the Securities Act of Arizona or the rules, regulations or orders of the Commission issued or promulgated thereunder. Failure to request a hearing within ten days of receipt of a notice and opportunity for hearing will result in the issuance of an order denying or suspending the exemption. The temporary suspension of an exemption previously granted will become final within ten days of service of petitioner unless a petition for a hearing to the Commission is filed by the petitioner within that time period. If such a petition is filed, the Commission may after a hearing or notice and opportunity for a hearing enter an order permanently revoking the exemption if it finds that any of the grounds for denial specified in A.R.S. § 44-1921 exist, or if it finds any violation of the terms of this rule, the Securities Act of Arizona, Title 44, Chapter 12, Arizona Revised Statutes, or the regulations or orders of the Commission promulgated or issued thereunder.

Historical Note
Adopted effective November 6, 1979 (Supp. 79-6).

R14-4-128. Unsolicited transactions

A non-issuer transaction effected by or through a dealer registered under the provisions of Article 9 of the Securities Act pursuant to an unsolicited order or offer to buy shall be added to the class of transactions exempted by A.R.S. § 44-1844.

Historical Note
Adopted effective November 8, 1983 (Supp. 83-6).

R14-4-129. Registration procedures for dealers and salesmen

A. Application for registration as a dealer or salesman may be made by means of the National Association of Securities Dealers/North American Securities Administrators Association Central Registration Depository System (CRD System) by applicants entitled to use such system.

B. A filing of Form BD or Form U-4 with the CRD System does not constitute an automatic registration in this state. Dealers or salesmen should not consider themselves registered until a notice of effective registration has been issued by the Commission.

C. The filing of documents and information with the CRD System is equivalent to filing with the Commission.

Historical Note
Adopted effective March 16, 1984 (Supp. 84-2).

R14-4-130. Dishonest and Unethical Conduct

A. For purposes of A.R.S. §§ 44-1961(A)(13) and 44-1962(10), dishonest or unethical practices in the securities industry shall include but not be limited to the following:

1. Unreasonable delay in the delivery of securities or funds to the extent that the dealer or salesman is in a position to control or direct the delivery of the securities or funds. The burden of proof of inability to deliver shall rest with the dealer or salesman.
2. Representing that securities will be listed, or that application for listing will be made on a securities exchange or the National Association of Securities Dealers Automated Quotation (NASDAQ) system or other quotation system without reasonable basis in fact for the representation.
3. Inducing trading in a customer's account which is excessive in size or frequency in view of the customer's financial resources, the character of the account, and other relevant factors.
4. Recommending to a customer the purchase, sale or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer. Such suitability shall be determined on the basis of information furnished by the customer after such inquiry as may be necessary under the circumstances, concerning the customer's investment objectives, financial situation and needs, and other information known by the person making the recommendation. Each registered dealer shall require and maintain information regarding its customers necessary to make such determination prior to engaging in any transaction based upon a recommendation by the firm or its registered salesman.
5. Selling a security in violation of Section 15(g) of the Securities Exchange Act of 1934, 15 U.S.C.A. 780(g) (West 1981 & Supp. 1991) ("Section 15(g)") which is incorporated herein by reference and is on file with the Office of the Secretary of State.
6. Executing a transaction on behalf of a customer without authority to do so.
7. Executing a transaction pursuant to general discretionary authority for the account of a customer without first obtaining general discretionary authority in writing from such customer. This provision shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite amount of a specified security shall be executed.
8. Acting on an agency basis for both the seller and the purchaser of a security (other than U.S. Savings Bonds or municipal securities) without disclosing that fact to both the seller and the purchaser on the confirmation.
9. While acting on an agency basis for a customer in any transaction, charging the customer more than a fair commission or service charge, taking into consideration all relevant circumstances including market conditions with respect to a security at the time of the transaction, the expenses of executing the order and the value of any service rendered by reason of experience in and knowledge of the security and the market therefor.
10. While acting on a principal basis for a customer in any transaction, charging an excessive markup or markdown, taking into consideration all relevant circumstances including market conditions with respect to a security at the time of the transaction, the expenses of executing the order and the value of any service rendered by reason of experience in and knowledge of the security and the market therefor.
11. Entering into a transaction with a customer in a security at a price not reasonably related to the market price of the security.
12. Extending credit to a customer in violation of 12 CFR 220.1 through 220.18 (1991) (hereinafter referred to as "Regulation T") which is incorporated herein by reference and is on file with the Office of the Secretary of State.
13. Selling an equity security to, or purchasing an equity security from, a customer without disclosing on the con-

firmation that the dealer is acting as a market maker in that security. "Market maker" as used herein shall mean any specialist permitted to act as a dealer, and any dealer who, with respect to a security, holds himself out (by entering quotations in an inter-dealer communications system or otherwise) as being willing to buy and sell such security for his own account on a regular or continuous basis.

14. Employing, in connection with the purchase or sale of a security, a manipulative or deceptive device or contrivance.
15. Borrowing of money or securities by a salesman from a customer, except when the customer is a relative of the salesman or a person in the business of lending funds.
16. Making unauthorized use of securities or funds of a customer or converting customer securities or funds for personal benefit.
17. While registered as a salesman, effecting securities transactions which have not been recorded on the records of the dealer with whom such salesman is registered at the time of the transaction.
18. As a registered salesman, operating an account under a fictitious name with intent to deceive or for an illegal purpose.
19. Engaging in a pattern of marking order tickets as unsolicited when the dealer or salesman directly or indirectly recommended the transaction or introduced the customer to the security.
20. Using sales materials or conducting sales presentations in a deceptive or misleading fashion.

B. To the extent that Section 15(g) or Regulation T are amended, dealers and salesmen in compliance with such amended versions shall not be subject to enforcement action by the Commission for violation of provisions of subsection (A)(5) or (12) respectively hereof to the extent that the violation results solely from the dealer's or salesman's compliance with the amended version of Section 15(g) or Regulation T.

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4).

R14-4-131. Supervision of Salesmen

For purposes of A.R.S. § 44-1961(A)(12), no dealer shall be deemed to have failed to reasonably supervise its salesmen if:

1. There have been established and maintained written procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any such violation by such salesman of the Arizona Securities Act, or of any rule or regulation adopted thereunder; and
2. Such dealer has reasonably discharged the duties and obligations incumbent upon it by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4).

R14-4-132. Books and Records of Dealers

A. Unless otherwise provided by order of the Commission, each registered dealer shall make, maintain and preserve books and records in compliance with U.S. Securities and Exchange Commission rules 17a-3 (17 CFR 240.17a-3 (1991)), 17a-4 (17 CFR 240.17a-4 (1991)), 15c2-6 (17 CFR 240.15c2-6 (1991)), and 15c2-11 (17 CFR 240.15c2-11 (1991) as amended in Release No. 34-29094, 56 Fed. Reg. 19148 (1991)) which are incorporated herein by reference and on file with the Office of the Secretary of State.

B. To the extent that the U.S. Securities and Exchange Commission promulgates changes to the above-referenced rules, dealers in compliance with such rules as amended shall not be subject to enforcement action by the Commission for violation of this rule to the extent that the violation results solely from the dealer's compliance with the amended rule.

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4).

R14-4-133. Definition of Partners and Executive Officers

For purposes of A.R.S. § 44-1801(19), the following definitions shall apply:

1. "Partners" shall mean a general partner or any other partner with the equivalent rights, liabilities and obligations of a general partner.
2. "Executive officers" shall mean the president, any vice president in charge of a principal business unit or division, the secretary, the treasurer, the chief executive officer, the chief financial officer, the chief operating officer, or an officer who performs a principal policy-making function for a principal business unit or division.

Historical Note
Adopted effective November 4, 1992 (Supp. 92-4).

R14-4-134. Guidelines for securities filings pursuant to A.R.S. § 44-1902

A. Uniform Limited Offering Registration (ULOR). Securities may be registered by qualification under A.R.S. § 44-1902 in an aggregate amount not exceeding $1,000,000 in any 12-month period as provided in this regulation.

B. Incorporation by Reference of Form U-7.

1. Any reference in this rule to Form U-7 means the Small Corporate Offering Registration Form (Form U-7) as adopted by the North American Securities Administrators Association, Inc., on April 29, 1989, which is incorporated herein by reference and on file with the Secretary of State.
2. Copies of Form U-7 are available from the Commission and from the North American Securities Administrators Association, Inc.
3. References to Form U-7 in this rule do not include any amendments or editions to Form U-7 adopted subsequent to April 29, 1989.

C. Qualification. To be eligible for registration under A.R.S. § 44-1902, the following conditions apply:

1. The issuer must be a corporation.
2. The offering must not be a blind pool offering (as defined in A.R.S. § 44-1801).
3. The issuer must not be an investment company subject to the Investment Company Act of 1940.
4. The issuer must not be subject to the reporting requirements of Section 13 or Section 15(d) of the Securities Exchange Act of 1934.
5. The qualifications for use set forth in Part II ("Qualifications for Use of Form") in the Instructions For Use of Form U-7 must be met.
6. If the offering includes debt securities, the application for registration must include information that demonstrates the ability of the issuer to service its debt.

D. Disclosure Document. Application for registration of securities by qualification under A.R.S. § 44-1902 shall be made by the issuer of the securities by filing with the Commission a disclosure document of Form U-7, with Exhibits as required by Part V of the Instructions For Use of Form U-7, and such other

documents as are required by Part III(A) of the Instructions For Use of Form U-7.

E. Financial Statements. The financial statements included in the application for registration shall be in the form provided in Part IV(K) of the Instructions For Use of Form U-7.

F. Registration Fee. An application for registration under this regulation shall be accompanied by a nonrefundable fee as provided in A.R.S. § 44-1861.

G. Issuer-Dealer Registration. Application for registration of securities by qualification under this regulation shall, if accompanied by a duly completed Form BD, a brief description of the proposed method of sale and other information required by A.R.S. § 44-1941, also be deemed to constitute application for registration of the issuer as a dealer who deals exclusively in securities of which the dealer is the issuer ("issuer-dealer") under A.R.S. § 44-1941. No bond shall be required for purposes of such issuer-dealer application. The Commission or the Director may require submission of additional information as to the applicant's previous history, record or business experience as deemed necessary to determine whether the applicant should be registered as a dealer, as provided under A.R.S. § 44-1942. Appropriate examinations may be required.

H. Reporting. After registration under A.R.S. § 44-1902, the issuer shall cause the following reports to be delivered to the Commission:

1. A report stating the number of purchasers and the dollar amount of securities sold thereto shall be delivered within ten days after every 90-day period following the effective date of the registration and on completion of the offering.
2. A statement to the effect that no changes in or amendments to the Form U-7 or sales and advertising materials provided to the Commission have been made (other than such changes or amendments as shall have been filed with and declared effective or cleared by the Division) shall be delivered within ten days after every 90-day period following the effective date of the registration and on completion of the offering.
3. A report stating in reasonable detail the application of the offering proceeds by the issuer shall be delivered within ten days after every six-month period following the effective date of the registration and at such time as the proceeds have been completely used.
4. The Commission may specify the forms necessary to fulfill the reporting requirements stated above in paragraphs (H)(1), (2), and (3).
5. As long as any securities sold in the offering are outstanding there shall be delivered any reports required by Form U-7 or under the Securities Exchange Act of 1934 to be furnished to investors, unless there are ten or fewer shareholders and all of such shareholders consent in writing to the cessation of such reporting. In addition, there shall be delivered any other reports, brochures, letters or such similar documents furnished, through any medium, to investors or such other materials as the Commission may determine.

I. Other Requirements. The following rules and regulations shall apply to registration of securities by qualification under A.R.S. § 44-1902:

1. R14-4-103 (advertising and sales literature), except, however, that all advertising and sales materials must be cleared by the Division.
2. R14-4-105 (promotional securities), provided that, unless a lower number is set by the Commission on an individual case basis, "60%" shall be substituted for "15%" in paragraph (A)(2) thereof (pertaining to the amount of promotional securities subject to escrow).
3. R14-4-106 (options, warrants and rights to purchase).
4. R14-4-107 (promoters equity), provided that the amounts set forth therein may be reduced by the Division at the request of the issuer for good cause shown.
5. R14-4-108 (sales commission and expenses), provided that "20%" shall be substituted for "15%" in subsection (A) thereof.
6. R14-4-110 (installment sales).
7. R14-4-111 (commissions to officers and directors).
8. R14-4-112 (impoundment of funds) and R14-4-113 (impound dates).
9. R14-4-118 (statement required in prospectus). In addition, the issuer must deliver to each investor a copy of such literature mandated by the Commission, along with a Form U-7 which has been declared effective by the Commission and any supplements thereto for each offer of securities.

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3),

R14-4-135. Exempt securities - Multijurisdictional disclosure system

An offering of securities within this state which has been declared effective with the U.S. Securities and Exchange Commission (the "SEC") on Form F-7, F-8, F-9, or F-10 shall be added to the class of securities exempt under A.R.S. § 44-1843, provided that:

1. A prospectus of an offering circular, the standards of form or content which are prescribed by any provision of the Securities Act of 1933, or rules and regulations promulgated thereunder, and Form F-7, F-8, F-9, or F-10, whichever is applicable, shall be filed with he Commission at least seven days before the offering is made; and
2. A nonrefundable exemption fee as provided in A.R.S. § 44-1861(G) shall be paid to the Commission.

Historical Note
Adopted effective August 14, 1991 (Supp. 91-3),

Editor's Note: The following Section was amended under an exemption from the Attorney General certification provisions of the Arizona Administrative Procedure Act (See State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)), as determined by the Corporation Commission. This exemption means that this rule as amended was not certified by the Attorney General.

R14-4-136. Exempt Transactions - Offers and Sales of Securities Pursuant to Certain Compensatory Benefit Plans and Contracts Relating to Compensation

A. Exemption. Offers and sales of securities that satisfy the provisions of subsection (B) by an issuer that satisfies the requirements of A.R.S. § 44-1902(B)(4) and (5) shall be added to the class of transactions exempt under the provisions of A.R.S. § 44-1844.

B. Conditions to be met.

1. An exemption under this rule applies only to offers and sales of an issuer's securities pursuant to:
   a. A written compensatory benefit plan and interests in such a plan established by that issuer, its parents, or majority-owned subsidiaries for the participation of their employees, directors, general partners, trustees (where the issuer is a business trust), officers, or consultants or advisers provided that bona fide services shall be rendered by consultants or advisers and such services must not be in connection with the

offer and sale of securities in a capital-raising transaction; or

b. A written contract relating to the compensation of the persons specified in subparagraph (B)(1)(a).

2. For purposes of this rule, a compensatory benefit plan means any purchase, savings, option, bonus, stock appreciation, profit sharing, thrift, incentive, pension, or similar plan.
3. The issuer, its parent, or majority-owned subsidiary shall provide each participant in a compensatory benefit plan with a copy of such plan. A copy of a written contract relating to compensation shall be provided to the parties.
4.
   a. Aggregate offering price means the sum of all cash, property, notes, cancellation of debt, or other consideration to be received by the issuer for the issuance of the securities. Noncash consideration should be valued in reference to bona fide sales of that consideration made within a reasonable time or, in the absence of sales, on the fair value as determined by generally accepted accounting principles.
   b. No adjustment to the aggregate offering price described in this rule shall be made for other offerings made in reliance upon other rules adopted pursuant to the Arizona Securities Act. The aggregate offering price under other rules adopted pursuant to the Arizona Securities Act shall not be reduced by offerings made under this rule.
   c. The number of shares permitted to be offered and sold under subparagraph (B)(5)(b) shall not be reduced by the number of shares offered or sold in reliance upon other rules adopted pursuant to the Arizona Securities Act or vice versa.
5. The amount of securities offered and sold in reliance on this rule shall not exceed the greater of $500,000 or the amount determined pursuant to subparagraph (B)(5)(a) or (b); provided, however, that the aggregate offering price of securities of the issuer subject to outstanding offers made in reliance on this rule plus securities of the issuer sold in the preceding 12 months in reliance on this rule shall in no event exceed $5,000,000.
   a. The aggregate offering price of securities of the issuer subject to outstanding offers in reliance on this rule plus securities of the issuer sold in the preceding 12 months in reliance on this rule shall not exceed 15% of the total assets of the issuer, measured at the end of its last fiscal year; or
   b. The number of securities of the issuer subject to outstanding offers in reliance on this rule plus securities of the issuer sold in the preceding 12 months in reliance on this rule shall not exceed 15% of the outstanding securities of that class. The outstanding securities of a class shall include securities of that class issuable pursuant to the exercise of outstanding options, warrants, rights, or conversion of convertible securities, unless such options, warrants, rights, or convertible securities were issued under this rule. If the securities offered or sold under this rule are convertible securities, the number of securities subject to outstanding offers and sold under this subsection shall be deemed to be the shares of the securities into which such securities may be converted.
6. Offers and sales exempt pursuant to this rule are deemed to be a part of a single, discrete offering and are not subject to integration with any other offering or sale whether registered under the Arizona Securities Act or otherwise exempt from the registration requirements of the Arizona Securities Act.

C. Except as provided in subsection (D), an exemption pursuant to this rule is not available for the securities of an issuer if the issuer or any of its predecessors, affiliates, directors, officers, general partners, or beneficial owners of ten percent or more of any class of its equity securities:

1. Has been convicted of a felony involving racketeering or a transaction in securities or of which fraud is an essential element or offenses listed in A.R.S. § 13-2301(D)(4).
2. Has been convicted within the ten years before any issuance of securities under this rule, or at any time thereafter, of a misdemeanor involving racketeering or a transaction in securities or of which fraud or dishonesty is an essential element.
3. Is subject to an order, judgment, or decree of a court of competent jurisdiction entered within ten years of the date of any issuance of securities under this rule enjoining or restraining him from engaging in or continuing any conduct or practice in connection with the sale or purchase of securities or involving fraud, deceit, racketeering, or consumer protection laws.
4. Has been subject to any state or federal administrative order or judgment in connection with the purchase or sale of securities entered within five years before any issuance of securities under this rule or at any time thereafter.
5. Is subject to an order of the Securities and Exchange Commission denying or revoking registration as a broker or dealer in securities under the Securities Exchange Act of 1934, is subject to an order denying or revoking membership in a national securities association registered under the Securities Exchange Act of 1934, or has been suspended for a period exceeding six months or expelled from membership in a national securities exchange registered under the Securities Exchange Act of 1934.

D. The Commission may, at its discretion, waive any disqualification caused by subsection (C). A disqualification under subsection (C) ceases to exist if:

1. The basis for the disqualification has been removed by the jurisdiction creating it,
2. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification, or
3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

E. In view of the primary purpose of this rule, which is to provide an exemption from the registration requirements of the Arizona Securities Act for securities issued in compensatory circumstances, this rule is not available to any issuer for any transaction which, while in technical compliance with this rule, is part of a plan or scheme to circumvent this purpose, such as to raise capital or to evade the registration provisions of the Arizona Securities Act. In such cases, registration or some other exemption from registration under the Arizona Securities is required.

Historical Note

Adopted effective November 21, 1991 (Supp. 91-4).
Amended effective June 27, 1994, under an exemption from the Attorney General certification requirements of the Arizona Administrative Procedure Act (Supp. 94-2).

R14-4-137. Exempt transactions - Securities issued pursuant to court or governmental order

A. An issuance of securities in exchange for bona fide claims or property interests within or from this state which is made pur-

suant to a final judgment or order, in either event no longer subject to appeal, of a federal or state court of competent jurisdiction or other governmental authority expressly authorized by law, and where the terms and conditions of such issuance are approved, shall be added to the class of transactions exempt under A.R.S. § 44-1844. An offering made pursuant to this exemption cannot be combined with an offering made pursuant to A.R.S. §§ 44-1843, 44-1843.01, and 44-1844.

B. To qualify for exemption under this rule, the following conditions must be satisfied:

1. The issuer shall file with the Commission one copy of a notice of the hearing upon the fairness of the terms of the issuance, no less than ten calendar days prior to the hearing.
2. The hearing must be held after reasonable notice and opportunity to be heard is given to all interested parties.
3. At the conclusion of the hearing, the court or other governmental authority must expressly find that the terms of the exchange are fair.
4. The issuer shall file with the commission one copy of the final signed order of the court or other governmental authority within ten calendar days of the issuance of such order.

C. This rule is not available to any issuer for any transaction or chain of transactions that, although in technical compliance with the rule, is part of a plan or scheme to evade the registration provisions of the Arizona Securities Act.

Historical Note

Adopted effective December 20, 1991 (Supp. 91-4).

R14-4-138. Foreign Security Exemption

A. The following transactions are added to the class of transactions exempt under A.R.S. § 44-1844. Pursuant to A.R.S. § 44-1848, no dealer or salesman as defined in A.R.S. § 44-1801 shall engage in the following transactions unless such dealer or salesman is registered under A.R.S. Title 44, Chapter 12, Article 9 or unless such transactions are exempt pursuant to A.R.S. § 44-1844(A)(4) and dealer registration is not required by Section R14-4-104:

1. A non-issuer transaction in an outstanding security (including an American Depository Receipt representing such a security), of an issuer domiciled in a foreign country with which the United States is at the time of the transaction maintaining diplomatic relations (including the sale by a dealer, including an underwriter no longer acting as an underwriter in respect to the securities involved, but not including securities constituting an unsold allotment to or subscription by the dealer as a participant in the distribution of the securities by the issuer or by or through an underwriter), if the class of security has been outstanding in the hands of the public for not less than 90 days preceding the date of the transaction and if, at the time of the transaction, the conditions of subparagraphs (a) and (b) hereof are met:
   a. The exemption of paragraph (1) is not available unless one of the following requirements is met:
      i. The most recent edition of Moody's International Manual or Standard & Poor's Corporation Records, or the periodic supplements to such publications (hereinafter referred to as the "Manual"), contains a description of the issuer's business or operations, the names of the issuer's officers and directors (or their corporate equivalents in the issuer's country of domicile), an audited balance sheet of the issuer as of a date within 18 months of the date of the transaction and audited profit and loss statements for each of the issuer's two fiscal years immediately preceding the date of such balance sheet (such statements to be prepared in accordance with U.S. or Foreign GAAP); or
      ii. The issuer of the security has a class of securities subject to the reporting requirements of Section 13 of the Securities Exchange Act, 15 U.S.C.A. 78m (West 1981 & Supp. 1992) ("Section 13") or Section 15(d) of the Securities Exchange Act, 15 U.S.C.A. 78o(d) (West 1981) ("Section 15(d)") and is not delinquent in such reporting. Section 13 and Section 15(d) are incorporated herein by reference and on file with the Secretary of State; or
      iii. The security is exempted from the provisions of Section 12(g) of the Securities Exchange Act of 1934, 15 U.S.C.A. 78l(g) (West 1981) by Section 12(g)(3) of that Act, 15 U.S.C.A. 78l(g)(3) (West 1981) and the issuer is in compliance with all of the conditions of Section 12g3-2(b)(1), 17 CFR 240.12g3-2(b)(1) (1992) which sections and rule are incorporated herein by reference and on file with the Secretary of State.
   b. The exemption of paragraph (1) is not available unless all of the following requirements are met:
      i. The issuer, including any predecessors, has been in continuous operation for at least the preceding five years, is a going concern actually engaged in business and is not in an organizational or developmental stage, and is not in bankruptcy or receivership; and
      ii. The issuer has net tangible assets of at least U.S. $25,000,000 as of the date of its most recent audited financial statement prepared in accordance with U.S. or Foreign GAAP. Such statement shall be dated as of a date within 18 months of the date of the transaction; and
      iii. The issuer had an average net income after taxes of at least U.S. $1,000,000 over its most recent two consecutive years of operation according to audited profit and loss statements of the issuer prepared in accordance with U.S. or Foreign GAAP for the issuer's two fiscal years immediately preceding the date of the financial statement referred to in subdivision (A)(1)(b)(ii) hereof; and
      iv. The issuer has a class of securities listed or traded on a stock exchange or automated quotation system organized under the laws of its country of domicile; and
      v. For the issuer's securities in the United States, there are at least two market makers, who are registered broker-dealers under the Securities Exchange Act of 1934, or at least one market maker who is a registered broker-dealer under the Securities Exchange Act of 1934 and who has a net capital of at least $25,000,000.
2. A non-issuer transaction in an outstanding security, other than a revenue obligation, which is issued or guaranteed by any foreign government with which the United States is at the time of sale maintaining diplomatic relations, or by a political subdivision of Canada or Mexico having the power of taxation, if the securities when offered for sale in this state are acknowledged by the foreign government

or political subdivision as valid obligations, and none of the securities of the foreign government or political subdivision are in default either as to principal or interest.

B. The Commission may by order revoke or suspend this exemption with respect to any securities or the use of the exemption by any dealer if it finds that the further sale in this state of the securities or by the dealer would work, or tend to work, a fraud or deceit on the purchaser. The Director may temporarily suspend this exemption with respect to any security or the use of the exemption by any dealer pursuant to the procedures for a temporary cease and desist order under Section R14-4-307.

C. For purposes of this rule, the following definitions shall apply:

1. "American Depository Receipt" is a negotiable certificate issued by a U.S. depository pursuant to an effective registration statement filed on Form F-6 with the Securities and Exchange Commission, representing the securities of a non-U.S. company, which securities are held in custody by a custodian in the company's country of domicile; or a similar type of receipt or instrument issued in respect of a security which receipt or instrument has been approved for sale by order of the Commission.
2. "Issuer" of an American Depository Receipt shall be deemed to be the non-U.S. company that issued the securities represented by the American Depository Receipt.
3. "U.S. or Foreign GAAP" shall mean generally accepted accounting principles of the United States or of the foreign country in which the issuer is domiciled.

Historical Note

Adopted effective March 4, 1993 (Supp. 93-1).

R14-4-139. Reserved

R14-4-140. Exempt Public Offerings to Accredited Investors

A. Definitions and terms. As used in this rule, the following terms shall have the meanings indicated:

1. "Accredited investor" shall have the meaning provided in R14-4-126.
2. "Business Day" shall mean any day other than a Saturday, Sunday, or day which is a legal holiday in the state of Arizona.
3. "Form D" shall mean Form D of Regulation D (17 CFR 239.500 (1994)) promulgated by the SEC under the Securities Act of 1933, which is incorporated by reference and is on file with the Office of the Secretary of State.
4. "Rule 504" shall mean Rule 504 of Regulation D (17 CFR 230.504 (1994)) promulgated by the SEC under the Securities Act of 1933, which is incorporated by reference and is on file with the Office of the Secretary of State.
5. "Securities Act" shall mean the Arizona Securities Act.
6. "SEC" shall mean the United States Securities and Exchange Commission.

B. Initial offers and sales of securities by an issuer in reliance on Rule 504 shall be exempt from the registration requirements of A.R.S. §§ 44-1841 and 44-1842, subject to the satisfaction of all of the following conditions:

1. The exemption from A.R.S. § 44-1842 shall be available for offers of an issuer made only by its employees, officers, and directors who were not retained for the primary purpose of making offers on behalf of the issuer and shall not be available for third parties or dealers retained by an issuer in connection with offers of the issuer.
2. The sale of securities shall not exceed $1,000,000 in any 12-month period.
3. The issuer shall not be a development stage company with no specific business plan or purpose or a development stage company that has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person.
4. Offers of securities must specify that sales shall be made only to accredited investors. Sales of securities shall be made exclusively to accredited investors.
5. Any prospectus, offering memorandum, subscription documents, or other offering documents used in connection with the offer or sale of securities shall be filed with the Commission at least ten business days prior to the initial sale of securities.
6. An opinion of counsel as to the validity of the issuance of the securities and the filing fee required by A.R.S. § 44-1861(E) shall be filed with the Commission at least ten business days prior to the initial sale of securities.
7. Any advertisement, communication, or sales literature of any kind, published either manually or electronically, exhibited, or broadcast for radio or television must specify that sales shall be made only to accredited investors and shall be filed with the Commission at least five business days prior to the use thereof. All radio and television broadcasts must be scripted and all such scripts and a videotape of all scripted television broadcasts must be submitted to the Commission within the requisite time period.
8. The following legend shall be set forth on the cover page of any offering documents, or any subscription documents if there are no other offering documents, printed in capital letters in bold-face Roman type at least as large as ten-point modern type and at least two points leaded:

   "SUBJECT TO THE PROVISIONS OF ARIZONA ADMINISTRATIVE CODE R14-4-140, THESE SECURITIES MAY BE OFFERED AND SOLD BY THE ISSUER ONLY TO ACCREDITED INVESTORS AS DEFINED IN ARIZONA ADMINISTRATIVE CODE R14-4-126 AND MAY BE RE-OFFERED AND SOLD WITHIN ARIZONA FOR A THREE- YEAR PERIOD ONLY TO ACCREDITED INVESTORS. THESE SECURITIES HAVE NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION OR THE ARIZONA CORPORATION COMMISSION, NOR HAVE THEY PASSED UPON THE MERITS OF OR OTHERWISE APPROVED THIS OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."
9. The first sentence of the legend required by subsection (B)(8) shall be conspicuously set forth on the front of any certificate that represents a security issued or resold in accordance with this rule. Any certificate legend shall no longer be required upon the termination of any resale restrictions in accordance with subsection (F).
10. A copy of any initial Form D required to be filed with the SEC shall be filed with the Commission within ten business days after filing the Form D with the SEC.
11. At the time of sale, the issuer, or any of its predecessors, affiliates, directors, officers, general partners, or beneficial owners of 10% or more of any class of its equity securities, or any underwriter of the securities shall not fall within the disqualifications of A.R.S. § 44-1901(G)(1) through (6).
12. No later than 30 business days following the completion of any offering of securities, the issuer shall file with the Commission a certificate, signed by at least two of its authorized officers, partners, or other authorized persons,

stating that such authorized officers, partners, or other authorized persons, in their official capacities for the issuer and after undertaking a reasonable investigation, believe that the issuer has complied with all of the requirements of subsection (B).

C. The Director may, in the Director's discretion, waive any disqualification caused by subsection (B)(11).

D. Any disqualification caused by subsection (B)(11) shall cease to exist if any of the following occurs:
1. The basis for the disqualification has been removed by the jurisdiction creating it.
2. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification.
3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

E. Except for re-offers and resales registered under Articles 6 or 7 of the Securities Act, re-offers and resales of securities issued in accordance with subsection (B) shall be made in Arizona exclusively in accordance with subsection (E). Such re-offers and resales shall be exempt from the registration requirements of A.R.S. §§ 44-1841 and 44-1842, subject to satisfaction of all of the following conditions:
1. Re-offers of securities must specify that resales within Arizona shall be made only to accredited investors. Resales of securities within Arizona shall be made exclusively to accredited investors.
2. The seller of securities shall reasonably believe that the initial sale of securities complied with subsection (B). A reasonable belief may be based on the certificate of the issuer filed in accordance with subsection (B)(12), provided that the seller of the securities did not know and, in the exercise of reasonable care, could not have known of any material misstatement or omission in such certificate.
3. Any advertisement, communication, or sales literature of any kind, published either manually or electronically, exhibited, or broadcast for radio or television must specify that resales shall be made only to accredited investors.

F. Any restrictions on re-offers or resales of securities imposed by subsection (E) shall terminate upon the earlier of:
1. Three years after the date of the filing of the certificate of the issuer required by subsection (B)(12);
2. The registration, with the Commission under Articles 6 or 7 of the Securities Act or with the SEC under the Securities Act of 1933 or the Securities Exchange Act of 1934, of all or part of the same class of securities or any other class of the issuer's securities junior in rank to such class of securities.

G. The Director may revoke the availability of subsection (B) or (E) prior to any particular sale of securities under such subsections with respect to a particular issuer, seller, or transaction if the Director determines that there is a reasonable likelihood that the sale of the securities would work or tend to work a fraud or deceit upon the purchasers thereof. In the event the Director makes such a determination, the seller of the securities may request a hearing in accordance with the provisions of Article 11 of the Securities Act by notifying the Commission within ten days after notice of the Director's determination described in this subsection (G).

H. No action or inaction on the part of the Commission or the Director with respect to any offer or sale of securities undertaken pursuant to this rule shall be deemed to be a waiver of any condition of this rule nor shall it be deemed to be a confirmation by the Commission of the availability of this rule or the approval of any offering.

Note. No specific information is required to be furnished to purchasers other than the legend required by subsection (B)(8). However, in view of the anti-fraud provisions of federal securities laws and the Securities Act, issuers of securities should consider carefully the advisability of written disclosure of all material information and risks respecting the securities being offered to investors.

Historical Note

Adopted effective August 14, 1995 (Supp. 95-3).

R14-4-141. Solicitation of Interest Prior to the Filing of the Registration Statement

A. The following definitions shall apply to this Section:
1. "Securities Act" means the Securities Act of Arizona, A.R.S. § 44-1801 *et seq*.
2. "SEC" means the United States Securities and Exchange Commission.
3. "Solicitation of Interest Form" means the document used to solicit indications of interest in a security, which must contain, in all material respects, the information set forth in subsection (J).

B. An offer, but not a sale, of a security made by an issuer, or on behalf of an issuer by a dealer registered under Article 9 of the Securities Act, for the sole purpose of soliciting an indication of interest in receiving a prospectus, or its equivalent, for such security is exempt from A.R.S. § 44-1841, and the issuer and its employees are exempt from A.R.S. § 44-1842, if all of the following conditions are satisfied:
1. The issuer is, or will be, a business entity organized under the laws of 1 of the states or possessions of the United States or 1 of the provinces or territories of Canada or 1 of the states of Mexico, and is not conducting or intending to conduct a blind pool offering as defined in A.R.S. § 44-1801(1).
2. The issuer intends to register the security in Arizona prior to sale or the securities will be sold pursuant to a valid exemption in Arizona.
3. Ten business days prior to the initial solicitation of interest under this Section, the issuer files with the Commission a Solicitation of Interest Form along with any other items to be used**,** directly or indirectly, to conduct solicitations of interest, including, but not limited to, the script of any broadcast to be made and a copy of any notice or advertisement to be published.
4. Five business days prior to usage, the issuer files with the Commission any material amendments to the foregoing items or additional items to be used to conduct solicitations of interest, except for items provided to a particular offeree pursuant to a request by that offeree.
5. The issuer does not use any Solicitation of Interest Form, script, advertisement or other item to solicit indications of interest, which the Division has notified the issuer not to distribute.
6. During the solicitation of interest period, the issuer, or the dealer on behalf of the issuer, does not solicit or accept money or a commitment to purchase securities.
7. Any published notice, published advertisement or script for broadcast must contain at least the identity of the chief executive officer of the issuer, a brief general description of the issuer's business and products, and the 1st paragraph of the legend required in the Solicitation of Interest Form pursuant to subsection (J)(2)(g).
8. All communications with prospective investors made in reliance on this Section must cease after a registration statement is filed in Arizona.

C. The issuer, or the dealer on behalf of the issuer, may communicate with any offeree about the contemplated offering provided the offeree is supplied the most current Solicitation of Interest Form no later than 5 business days from the communication. The requirements of this subsection do not apply to issuer communications made solely in the form of scripted broadcasts, published notices or published advertisements.

D. Unless the disqualification is waived or ceases to exist under subsection (E), the exemption of subsection (B) is not available if the issuer or any of its predecessors, affiliates, directors, officers, general partners, or beneficial owners of 10% or more of any class of its equity securities:

1. Has been convicted of a felony of which fraud is an essential element, or which involves racketeering, or a transaction in securities, or an offense listed in A.R.S. § 13-2301(D)(4).
2. Has been convicted within 10 years of the date of the filing of the Solicitation of Interest Form of a misdemeanor of which fraud or dishonesty is an essential element, or involving racketeering, or a transaction in securities.
3. Is subject to an order, judgment, or decree of any court of competent jurisdiction entered within 10 years of the date of the filing of the Solicitation of Interest Form, which temporarily, preliminarily or permanently enjoins or restrains such person from engaging in, or continuing, any conduct or practice in connection with the sale or purchase of securities, or involving fraud, deceit, racketeering or consumer protection laws.
4. Has been subject to any state or federal administrative order or judgment in connection with the purchase or sale of securities entered within 5 years of the date of the filing of the Solicitation of Interest Form.
5. Is subject to the reporting requirements of the Securities Exchange Act of 1934 and has not filed all required reports during the 12 calendar months before the filing of the Solicitation of Interest Form.
6. Is subject to an SEC order denying or revoking registration as a broker or dealer in securities under the Securities Exchange Act of 1934, or is subject to an order denying or revoking membership in a national securities association registered under the Securities Exchange Act of 1934, or has been suspended for a period exceeding 6 months, or expelled from membership in a national securities exchange registered under the Securities Exchange Act of 1934.

E. The Commission may, at its discretion, waive any disqualification caused by subsection (D). In addition, a disqualification under subsection (D) ceases to exist if:

1. The basis for the disqualification is removed by the jurisdiction creating it;
2. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification; or
3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

F. A failure to comply with all of the requirements of subsections (B) and (C) will not result in the loss of the exemption from A.R.S. §§ 44-1841 and 44-1842 for any offer to a particular individual or entity if the issuer shows all of the following:

1. The failure to comply did not pertain to a condition directly intended to protect that particular individual or entity;
2. The failure to comply was insignificant with respect to the offering as a whole; and
3. A good faith and reasonable attempt was made to comply with all applicable conditions of subsections (B) and (C).

G. Any issuer, or other person on behalf of an issuer, who solicits indications of interest under this Section, may not make offers or sales in reliance on A.R.S. § 44-1844(A)(1) or A.A.C. R14-4-126 until 6 months after the last communication with a prospective investor made pursuant to this Section.

H. All offers and communications, including but not limited to, the Solicitation of Interest Form, made in reliance on this Section are subject to the anti-fraud provisions of the Securities Act.

I. The Director of Securities may revoke the availability of this exemption prior to any particular solicitation of interest with respect to a particular issuer or transaction if the Director of Securities determines that there is a reasonable likelihood that the solicitation of interest would tend to work a fraud or deceit upon the offerees. In the event the Director of Securities makes such a determination, the issuer of the solicitation of interest may request a hearing in accordance with the provisions of Article 11 of the Securities Act by notifying the Commission within 10 days after written notice of the Director's determination.

J. The following sets forth the minimum information that must be included in a Solicitation of Interest Form. Additional information may be included. Except for the title, the required information may be presented graphically in any manner.

1. The title of the Solicitation of Interest Form must include the phrase: "SOLICITATION OF INTEREST."
2. The Solicitation of Interest Form must include each of the following items:
   a. Name of the issuer;
   b. Street address of the issuer's principal office;
   c. Issuer's telephone number;
   d. Date and place of organization of the issuer;
   e. Dollar amount of the proposed offering;
   f. Name of the issuer's chief executive officer or equivalent;
   g. The following legend, or a legend which is substantially equivalent in plain and concise language:
   "THIS IS A SOLICITATION OF INTEREST ONLY. NO MONEY OR OTHER CONSIDERATION IS BEING SOLICITED AND NONE WILL BE ACCEPTED.
   NO SALES OF THE SECURITIES WILL BE MADE, OR COMMITMENT TO PURCHASE ACCEPTED, UNTIL THE DELIVERY OF A FINAL OFFERING CIRCULAR [PROSPECTUS] THAT INCLUDES COMPLETE INFORMATION ABOUT THE ISSUER AND THE OFFERING. AN INDICATION OF INTEREST MADE BY A PROSPECTIVE INVESTOR INVOLVES NO OBLIGATION OR COMMITMENT OF ANY KIND.
   THIS OFFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER FEDERAL AND STATE SECURITIES LAWS. NEITHER THE FEDERAL NOR THE STATE AUTHORITIES HAVE CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT OR ANY OTHER DOCUMENT PRESENTED TO YOU IN CONNECTION WITH THIS OFFER. NO SALE MAY BE MADE UNTIL THE OFFERING CIRCULAR [PROSPECTUS] IS REGISTERED IN THIS STATE AND IS QUALIFIED OR REGISTERED BY THE SECURITIES AND EXCHANGE COMMISSION."

h. A statement indicating whether the issuer is in the development stage, is conducting operations, has never conducted operations, or other applicable description;
i. A general description of the issuer's business or proposed business including the products or goods that are, or will be, produced or services that are, or will be, rendered, how these products or services are, or will be, produced or rendered, and how and when the issuer intends to carry out its activities;
j. A general description of the purposes for which the issuer intends to use the proceeds of the proposed offering;
k. The following information for all executive officers and directors: name, title, office, street address, telephone number, employment history (employers, titles and dates of positions held during the past 5 years), and education if less than 5 years of business experience (degrees, schools and dates).

Historical Note
Adopted effective September 11, 1998 (Supp. 98-3).

R14-4-142. Securities Offerings on the Internet

A. Scope of Section. This Section applies to any offer for sale of securities placed on the Internet, except for those offers for sale from Arizona. As used in this Section, the term "Internet" is to be construed liberally to include all proprietary or common carrier electronic systems, or similar media.

B. An offer for sale of securities placed on the Internet by, or on behalf of, an issuer, involving securities that will not be sold in Arizona pursuant to the Internet offer, shall be exempt from the provisions of A.R.S. §§ 44-1841 and 44-3321, and the offeror of such securities shall be exempt from A.R.S. § 44-1842, provided that:
1. The Internet offer for sale prominently and conspicuously indicates on the cover page of any offering document and on any subscription agreement document (a) that the securities are not being offered to persons in Arizona, or (b) in which specific states, other than Arizona, the securities are being offered;
2. The offer for sale is not otherwise specifically directed to any person in Arizona by, or on behalf of, the issuer; and
3. No sales of the issuer's securities are made in Arizona as a direct or indirect result of the Internet offer for sale.

C. Any issuer who places an offer for sale of securities on the Internet in accordance with this Section may subsequently offer and sell such securities to persons in Arizona pursuant to a valid exemption from registration, or by filing a registration statement pursuant to A.R.S. §§ 44-1871, 44-1891, 44-1901 or 44-1902, or by filing a notice pursuant to A.R.S. § 44-3321. Where a registration statement is required, the issuer shall not make a sale of such securities to a person in Arizona until 30 days after the filing of the registration statement or the effective date of the registration statement, whichever is later.

Historical Note
Adopted effective September 11, 1998 (Supp. 98-3).

R14-4-143. Reserved

R14-4-144. Suitability Standards Pursuant to A.R.S. § 44-1845

A. Any issuer engaging in a transaction of a type specified in A.R.S. § 44-1845(B)(1) may apply for a special registration. Pursuant to A.R.S. § 44-1845(C), the special registration will impose the suitability standards of subsections (B) or (C) on the transaction in lieu of the conditions and standards prescribed under A.R.S. §§ 44-1876, 44-1877, 44-1878, 44-1921(1), (3), and (4), and the rules under those Sections, except when the sale of securities works or would tend to work a fraud or deceit upon the investors.

B. For all offerings listed on the Nasdaq SmallCap^{SM} Market, the dealer, or the issuer if engaging in the sale of its securities, must have a reasonable belief that the potential investor satisfies any of the following conditions:
1. Minimum of $100,000, or $150,000 when combined with spouse, in gross income during the prior year and a reasonable expectation that the investor will have such income in the current year; or
2. Minimum net worth of $250,000, or $300,000 when combined with spouse, exclusive of home, home furnishings and automobiles, with the investment not exceeding 10% of the net worth of the investor, together with spouse, if applicable.

C. For offerings not listed on the Nasdaq SmallCap^{SM} Market, the dealer, or the issuer if engaging in the sale of its securities, must have a reasonable belief that the potential investor satisfies any of the following conditions:
1. Minimum of $150,000, or $200,000 when combined with spouse, in gross income during the prior year and a reasonable expectation that the investor will have such income in the current year; or
2. Minimum net worth of $350,000, or $400,000 when combined with spouse, exclusive of home, home furnishings and automobiles, with the investment not exceeding 10% of the net worth of the investor, together with spouse, if applicable.

D. The suitability standards specified in this Section are not available for direct participation programs, including real estate programs, real estate investment trusts, commodity pools, oil and gas programs, equipment leasing programs, and other similar programs that let investors participate directly in the cash flow and tax benefits of the underlying investments.

E. The issuer, or any of its predecessors, affiliates, directors, officers, general partners or beneficial owners of 10% or more of any class of its equity securities, or any underwriter of the securities shall not fall within any of the disqualification provisions of A.R.S. § 44-1901(G)(1) though (6).

F. The Commission may, at its discretion, waive any disqualification caused by subsection (E).

G. Any disqualification caused by subsection (E) shall cease to exist if any of the following occurs:
1. The basis for the disqualification has been removed by the jurisdiction creating it.
2. The jurisdiction in which the disqualifying event occurred issues a written waiver of the disqualification.
3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

H. Adherence to a suitability standard imposed in connection with an offering subject to this Section, by condition or otherwise, shall not relieve a dealer from compliance with A.A.C. R14-4-130(A)(4).

I. Any offering document used in connection with an offering in which suitability standards are imposed under this Section shall prominently and conspicuously include a description of the applicable suitability standards.

Historical Note
Adopted effective September 11, 1998 (Supp. 98-3).

R14-4-145. Exemption for Electronic Venture Capital Networks

A. Definitions and terms. As used in this Section, the following terms shall have the meaning indicated:

1. "Accredited Investor" shall have the meaning provided in R14-4-126.
2. "Listed Company" shall mean a business that maintains a listing on the Network.
3. "Net Earnings" shall mean the after-tax earnings of a company or issuer that are derived from its normal operations, exclusive of extraordinary and nonrecurring items, determined according to generally accepted accounting principles.
4. "Network" shall mean a computer matching or listing service or system that facilitates the matching of businesses in need of capital to investors by enhancing the flow of information between businesses and investors.
5. "Affiliate" shall mean a person or entity that directly, or indirectly through 1 or more intermediaries, controls or is controlled by, or is under common control with, the person or entity specified.
6. "Operator" shall mean the person or entity that owns, operates, sponsors or conducts a Network and any employees. An Operator shall not include a dealer, an affiliate of a dealer, an investment adviser, or an affiliate of an investment adviser.
7. "Securities Act" shall mean the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.*

B. No Network or Operator shall be required to register as a dealer or salesman pursuant to Article 9 of the Securities Act, nor shall a Network or Operator be required to be licensed or file a notice as an investment adviser or investment adviser representative pursuant to Article 4 of the Arizona Investment Management Act (A.R.S. Title 44, Chapter 13), provided that the Network or Operator complies with the following conditions:

1. The Network or Operator shall not provide advice about any particular opportunities or ventures or make recommendations concerning any Listed Company;
2. The Network or Operator shall not receive compensation other than flat fees to cover administrative costs and such fees will not be made contingent upon the outcome or completion of any securities transaction resulting from a listing on the Network;
3. The Network or Operator shall not participate in any negotiations between investors and any Listed Company;
4. The Network or Operator shall not directly or indirectly assist any investor or Listed Company with any transaction;
5. The Network or Operator shall not handle funds or securities involved in any transaction;
6. The Network or Operator shall not hold themselves out as providing any securities-related services other than a listing or matching service;
7. The Network or Operator shall list only companies that the Network or Operator reasonably believes do not fall within the disqualification provisions listed in subsection (C);
8. The Network or Operator shall limit access to information on Listed Companies to only those persons or entities that the Network or Operator reasonably believes are Accredited Investors;
9. Information contained on the Network shall not be organized or presented in a manner that suggests that the Network recommends the purchase, holding or sale of any security;
10. Any information contained on the Network concerning any Listed Company will be readily available in documents from the Listed Company or its agents and, where required by law, will be filed with the appropriate state and federal authorities;
11. A Listed Company shall have a specific business plan or purpose, but its plan or purpose shall not be to engage in a merger or acquisition with an unidentified company or companies, or other entity or person;
12. Listed Company offerings may not exceed an aggregate of $5,000,000 in any consecutive 12 month period;
13. Operator or Network officials, participants, and employees with direct or indirect operating or supervisory control over Network operations will not participate as investors in any Listed Company unless such participation is in compliance with securities laws and such participation is disclosed on the Network.

C. This exemption is not available for any Network, Operator, or Listed Company if such entity or predecessor or any of its officers, directors, 10% stockholders, promoters or any selling agents of the securities to be offered, or any officer, director or partner of such selling agent:

1. Has filed a registration statement which is the subject of a registration stop order entered pursuant to any state's securities law within 5 years of the proposed offering;
2. Has been convicted within 5 years of the proposed offering of any felony or misdemeanor in connection with the offer, purchase or sale of any security or any felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;
3. Is subject to any state administrative enforcement order or judgment entered by that state's securities administrator within 5 years of the proposed offering, or is subject to any state's administrative enforcement order or judgment in which fraud or deceit, including, but not limited to, making untrue statements of material facts and omitting to state material facts, was found and the order or judgment was entered within 5 years of the proposed offering;
4. Is subject to any state's administrative enforcement order or judgment which prohibits, denies or revokes the use of any exemption from registration in connection with the proposed offer, purchase or sale of securities;
5. Is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restricting or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, permanently restraining or enjoining such party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with the state entered within 5 years of the proposed offering.

D. The Commission, at its discretion, may waive any disqualification caused by subsection (C).

E. Any disqualification caused by subsection (C) shall cease to exist if any of the following occurs:

1. The basis for the disqualification has been removed by the jurisdiction creating it;
2. The jurisdiction in which the disqualifying event occurs issues a written waiver of the disqualification;
3. The jurisdiction in which the disqualifying event occurred declines in writing to enforce the disqualification.

F. The Commission may by order revoke or suspend this exemption if it finds that the operation of the Network or Operator would work or tend to work a fraud or deceit upon investors or potential investors.

Historical Note
Adopted effective September 11, 1998 (Supp. 98-3).

R14-4-146. Processing of Initial and Renewal Applications for the Registration or Exemption of Securities Offerings

A. For purposes of this Section, the term "application" includes all documents, information and fees prescribed by the Commission for the registration or exemption of securities under A.R.S., Title 44, Chapter 12, and any rules promulgated under those statutes.

B. Within 30 days after receipt of an initial or renewal application for the registration or exemption of securities, the Commission shall notify the applicant, in writing, that the application is complete or deficient. If the application is deficient, the notice shall specify all deficiencies. Unless otherwise notified by the Commission, an application will be deemed complete 30 days after receipt by the Commission of information in satisfaction of all deficiencies.

C. An applicant with a deficient application shall supply the information in satisfaction of the deficiencies within the time permitted by A.R.S. § 44-1861(K). If the applicant fails to provide the information, the Commission may abandon the application under A.R.S. § 44-1861(K). An applicant whose application has been abandoned may reapply by submitting a new application.

D. Within 60 days after receipt of a complete application, the Commission shall approve the application or initiate the denial process by filing a notice of an opportunity for a hearing under R14-4-306. When a notice of an opportunity for a hearing is filed:

1. If the applicant does not request a hearing, the Commission shall approve, deny or take other appropriate action regarding the application within 70 days after service of the notice.
2. If the applicant requests a hearing, the applicant shall do so within 10 days after receipt of the notice. The Commission shall approve, deny or take other appropriate action regarding the application within 210 days after the applicant's request is docketed with the Commission.

E. For purposes of A.R.S. § 41-1073, the Commission has established the following time-frames:

1. When the Commission approves an application under subsection (D):
   a. Administrative completeness review time-frame: 60 days;
   b. Substantive review time-frame: 60 days;
   c. Overall time-frame: 120 days.
2. When the Commission initiates the denial process and no hearing is requested under subsection (D)(1):
   a. Administrative completeness review time-frame: 60 days;
   b. Substantive review time-frame: 130 days;
   c. Overall time-frame: 190 days.
3. When the Commission initiates the denial process and a hearing is requested under subsection (D)(2):
   a. Administrative completeness review time-frame: 60 days;
   b. Substantive review time-frame: 280 days;
   c. Overall time-frame: 340 days.

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

G. When the period of time prescribed in this Section is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall not be included in the computation. When the period of time prescribed for a specific time-frame is 11 days or more, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

H. In lieu of the time-frames established by this Section, the Commission shall process applications for the registration or exemption of certain securities offerings within the time-frames set forth in Table A.

Historical Note
Adopted effective September 17, 1998 (Supp. 98-3).

R14-4-147. Processing of Applications for Dealer and Salesman Registration

A. For purposes of this Section, the term "application" includes all documents, information and fees prescribed by the Commission under A.R.S., Title 44, Chapter 12, Articles 5 and 9 and any rules promulgated under those statutes.

B. The Commission shall provide notices of deficiency, completeness or approval, as required under this Section, either in writing or through the CRD system.

C. The following provisions apply to applications for dealer registration:

1. Within 21 days after receipt of an application for dealer registration, the Commission shall notify the applicant that the application is either complete or deficient. If the application is deficient, the notice shall specify all deficiencies. Unless otherwise notified by the Commission, an application will be deemed complete 21 days after receipt by the Commission of information in satisfaction of all deficiencies.
2. An applicant with a deficient application shall supply the information in satisfaction of the deficiencies within the time permitted by A.R.S. § 44-1861(K). If the applicant fails to provide the information, the Commission may abandon the application under A.R.S. § 44-1861(K). An applicant whose application has been abandoned may reapply by submitting a new application.
3. Within 60 days after receipt by the Commission of a complete application and the approval of the application by both the National Association of Securities Dealers and the state of the dealer's principal place of business if other than Arizona, the Commission shall approve the application or initiate the denial process by filing a notice of an opportunity for a hearing under R14-4-306. When a notice of an opportunity for a hearing is filed:
   a. If the applicant does not request a hearing, the Commission shall approve, deny or take other appropriate action regarding the application within 70 days after service of the notice.
   b. If the applicant requests a hearing, the applicant shall do so within 10 days after receipt of the notice. The Commission shall approve, deny or take other appropriate action regarding the application within 210 days after the applicant's request is docketed with the Commission.
4. For purposes of A.R.S. § 41-1073, the Commission has established the following time-frames:
   a. When the Commission approves an application under subsection (C)(3):
      i. Administrative completeness review time-frame: 42 days;
      ii. Substantive review time-frame: 60 days;
      iii. Overall time-frame: 102 days.
   b. When the Commission initiates the denial process and no hearing is requested under subsection (C)(3)(a):
      i. Administrative completeness review time-frame: 42 days;

ii. Substantive review time-frame: 130 days;
iii. Overall time-frame: 172 days.

c. When the Commission initiates the denial process and a hearing is requested under subsection (C)(3)(b):
i. Administrative completeness review time-frame: 42 days;
ii. Substantive review time-frame: 280 days;
iii. Overall time-frame: 322 days.

D. The following provisions apply to applications for salesman registration:

1. Within 30 days after receipt of an application for salesman registration, the Commission shall notify the applicant that the application is either complete or deficient. If the application is deficient, the notice shall specify all deficiencies. Unless otherwise notified by the Commission, an application will be deemed complete 30 days after receipt by the Commission of information in satisfaction of all deficiencies.
2. An application will not be deemed complete until the Commission receives notice through the CRD system, or otherwise, that the applicant:
a. Has passed all of the required examinations;
b. Is not seeking dual registration; and
c. Is not under special review status by the National Association of Securities Dealers.
3. An applicant with a deficient application shall supply the information in satisfaction of the deficiencies within the time permitted by A.R.S. § 44-1861(K). If the applicant fails to provide the information, the Commission may abandon the application under A.R.S. § 44-1861(K). An applicant whose application has been abandoned may reapply by submitting a new application.
4. Within 60 days after receipt of a complete application, and the approval of the application by both the National Association of Securities Dealers and the state of the salesman's principal place of business if other than Arizona, the Commission shall approve the application or initiate the denial process by filing a notice of an opportunity for a hearing under R14-4-306. When a notice of an opportunity for a hearing is filed:
a. If the applicant does not request a hearing, the Commission shall approve, deny or take other appropriate action regarding the application within 70 days after service of the notice.
b. If the applicant requests a hearing, the applicant shall do so within 10 days after receipt of the notice. The Commission shall approve, deny or take other appropriate action regarding the application within 210 days after the applicant's request is docketed with the Commission.
5. For purposes of A.R.S. § 41-1073, the Commission has established the following time-frames:
a. When the Commission approves an application under subsection (D)(4):
i. Administrative completeness review time-frame: 60 days;
ii. Substantive review time-frame: 60 days;
iii. Overall time-frame: 120 days.
b. When the Commission initiates the denial process and no hearing is requested under subsection (D)(4)(a):
i. Administrative completeness review time-frame: 60 days;
ii. Substantive review time-frame: 130 days;
iii Overall time-frame: 190 days.
c. When the Commission initiates the denial process and a hearing is requested under subsection (D)(4)(b):
i. Administrative completeness review time-frame: 60 days;
ii. Substantive review time-frame: 280 days;
iii. Overall time-frame: 340 days.

E. If an applicant under this Section requests, and is granted, an extension or continuance, the appropriate time-frames shall be tolled from the date of the request for the duration of the extension or continuance.

F. When the period of time prescribed in this Section is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall not be included in the computation. When the period of time prescribed for a specific time-frame is 11 days or more, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

G. The Commission shall renew registrations under this Section upon receipt by the Commission of the registration fee, as required by A.R.S. § 44-1861.

Historical Note
Adopted effective September 17, 1998 (Supp. 98-3).

Table A. Arizona Corporation Commission Securities Division - Time-Frames

ARIZONA CORPORATION COMMISSION SECURITIES DIVISION - Time-Frames

Security Offering	Statutory or Administrative Code Reference	Administrative Completeness Review (in days)	Substantive Review (in days)	Overall Time-Frame (in days)
Nonexempt government securities	A.R.S. § 44-1843.01	10	10	20
Exempt transactions – existing stockholders and/or employees	A.A.C. R14-4-101	5	5	10
Exempt transactions – restricted public offerings	A.A.C. R14-4-102	5	5	10

Historical Note
Adopted effective September 17, 1998 (Supp. 98-3).

ARTICLE 2. REPEALED *R14-4-212 repealed effective May 16, 1978.*

Former Article 2 consisting of Sections R14-4-201 through

ARTICLE 3. PROVISIONS RELATING TO ENFORCEMENT

R14-4-301. Scope of Article

This Article applies to investigations and examinations conducted pursuant to the provisions of the Securities Act and the IM Act, and to any orders issued under such acts. When not in conflict with this Article, the applicable provisions of A.A.C. R14-3-101 through R14-3-113 also shall apply.

Historical Note

Adopted effective October 31, 1979 (Supp. 79-5).
Amended effective November 19, 1987 (Supp. 87-4).
Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-302. Definitions

The following definitions shall apply to this Article 3 unless the context otherwise requires:

1. "Attorney General" means the duly qualified and acting Attorney General of Arizona or the Attorney General's duly appointed assistant.
2. "Division" means the Securities Division of the Arizona Corporation Commission.
3. "Formal interview" means the examination under oath of an individual compelled or requested to testify as part of an investigation or examination.
4. "Hague Convention" means the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, November 15, 1965, 20 U.S. Treaties and Other International Agreements 361, which is incorporated by reference, does not contain any later amendments or editions, and is on file in the Office of the Secretary of State. Copies of the Hague Convention are available from the Securities Division of the Arizona Corporation Commission and from the Treaty Affairs Section, Office of the Legal Adviser, Department of State, Washington, D.C. 20520.
5. "IM Act" means the Arizona Investment Management Act, A.R.S. § 44-3101 et seq.
6. "Respondent" means any person who has been captioned in or served a notice or order of the Commission.
7. "Securities Act" means the Securities Act of Arizona, A.R.S. § 44-1801 et seq.
8. "Unincorporated organization" includes a limited liability company for purposes of the definition of "person", as defined in A.R.S. § 44-1801(13).

Historical Note

Adopted effective October 31, 1979 (Supp. 79-5).
Amended effective November 19, 1987 (Supp. 87-4).
Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-303. Confidentiality

All information or documents obtained by officers, employees, or agents of the Commission, including, but not limited to, the shorthand reporter or stenographer transcribing the reporter's notes, in the course of any examination or investigation shall, unless made a matter of public record, be deemed confidential. Officers, employees, and agents are prohibited from making such confidential information available to anyone other than a member, officer or employee of the Commission, agents designated by the Commission or Director, the Attorney General, and law enforcement or regulatory officials, except in accordance with any rule of the Commission or unless the Commission or the Director authorizes the disclosure of such information or documents as not contrary to the public interest.

Historical Note

Adopted effective October 31, 1979 (Supp. 79-5).
Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-304. Methods of Service of Subpoenas, Notices, Orders, and Other Administrative Documents

A. Subpoenas, notices, and orders issued pursuant to the Securities Act or the IM Act, and any other documents filed in an administrative proceeding under the Securities Act or the IM Act, may be served by a sheriff, by the sheriff's deputy, by an employee of the Commission, or by any other person who is not less than 18 years of age and who is authorized by the Division or the Commission to serve the Commission's subpoena, notice, order, or other documents filed in the administrative proceeding.

B. Subpoenas, notices, orders, and other documents filed in an administrative proceeding may be served upon a natural person including, but not limited to, a dealer, salesman, investment adviser, or investment adviser representative, as follows:

1. By personal service.
2. By leaving a copy at the person's dwelling house, or usual place of abode, with a person of suitable age and discretion, but not less than 16 years of age, then residing therein.
3. By leaving a copy at the person's usual place of business or employment with an employee, express or implied agent, supervisor, owner, officer, partner, or other similar person of suitable age and discretion, but not less than 16 years of age.
4. By leaving a copy with an agent authorized by express or implied appointment or by law to receive service of process for the person to whom the subpoena, notice, or order is addressed.
5. By mailing a copy of the subpoena, notice, or order in an envelope addressed to the last known dwelling house or usual place of abode or last known business address. Subpoenas, notices, and temporary cease-and-desist orders shall be sent postage prepaid, by certified mail, with return receipt requested. The signed return receipt shall constitute proof of service of subpoenas, notices, and temporary cease-and-desist orders but shall not be the exclusive method of proving service. Service of all other orders or other documents filed in the administrative proceeding shall be deemed complete when a copy in an envelope, addressed to the last known dwelling house or usual place of abode or last known business address, is deposited in the United States mail with 1st class postage prepaid.

C. A subpoena, notice, order, or other document filed in an administrative proceeding may be served upon a corporation, partnership, trust, limited liability company, association, or other business entity, including, but not limited to, a dealer or an investment adviser, as follows:

1. By leaving a copy with an employee, of suitable age and discretion, but not less than 16 years of age, at any place of business of the corporation, partnership, trust, limited liability company, association, or other business entity;
2. By leaving a copy with any officer or director of a corporation, managing or general partner of a partnership, trustee of a trust, member of a member-managed limited liability company or manager of a manager-managed lim-

ited liability company, or any authorized representative of an association or other business entity;

3. By leaving a copy with any agent authorized by express or implied appointment or by law to receive service of process for the entity to whom the subpoena, notice, or order is addressed; or
4. By mailing a copy to the last known business address. Subpoenas, notices, and temporary cease-and-desist orders shall be sent postage prepaid, by certified mail, with return receipt requested. The signed return receipt shall constitute proof of service of subpoenas, notices, and temporary cease-and-desist orders but shall not be the exclusive method of proving service. Service of all other orders or other documents filed in the administrative proceeding shall be deemed complete when a copy in an envelope, addressed to the last known business address, is deposited in the United States mail with 1st class postage prepaid.

D. Unless otherwise ordered by the Commission, when a respondent has been served with a notice or a temporary cease- and-desist order and the respondent is represented by an attorney in the administrative proceeding relating to the notice or the temporary cease-and-desist order, service upon the respondent shall be made by making service upon the attorney. Service upon the attorney shall be deemed complete when a copy of any amended notice, order, or other documents filed in the administrative proceeding, addressed to the last known business address of the attorney, is deposited in the United States mail with 1st class postage prepaid.

E. Unless otherwise provided by law, service may be effected in a foreign country:

1. By any internationally agreed means reasonably calculated to give notice, such as those means authorized by the Hague Convention, provided, however, that if service is not effected within 6 months from the date on which the assistance of the government of the foreign country was requested pursuant to the applicable treaty or convention, service may be effected as directed by the Commission; or
2. If internationally agreed means of service are unavailable, provided that service is reasonably calculated to give notice:
   a. In the manner prescribed by the law of the foreign country for service in that country in an action in any of its courts of general jurisdiction; or
   b. As directed by the foreign authority in response to a letter rogatory or letter of request; or
   c. Unless prohibited by the law of the foreign country, by
      i. Delivery of copies of the subpoena, notice, order, or other document filed in the administrative proceeding to the party to be served personally; or
      ii. Any form of mail requiring a signed receipt, to be addressed and dispatched by the Commission to the party to be served; or
      iii. Diplomatic or consular officers when authorized by the United States Department of State; or
   d. If there is no lawful means by which service can be effected in the foreign country, such means as the Commission shall direct.

Historical Note

Adopted effective October 31, 1979 (Supp. 79-5). Amended subsections (A), (B) and (C) effective November 19, 1987 (Supp. 87-4). Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-305. Rights of Witnesses; Formal Interview; Procedures

A. Any person required or requested to appear as a witness at a formal interview may be accompanied, represented, and advised by a lawyer. The lawyer's role during the formal interview shall be limited to the following activities:

1. Giving legal advice to the witness before, during, and after the formal interview;
2. Questioning the witness briefly at the conclusion of the formal interview for the purpose of clarifying any testimony the witness has given; and
3. Making summary notes during the formal interview solely for the use of the witness and the lawyer.

B. Notwithstanding subsection (A), the following lawyers may not represent witnesses:

1. Any lawyer who has represented another witness who has testified at a formal interview in the examination or investigation,
2. Any lawyer who has represented another person who is a subject of the examination or investigation,
3. Any lawyer who may be a material witness in the examination or investigation,
4. Any lawyer who is a subject of the examination or investigation.

C. The Director may permit a lawyer to represent a witness in those situations described in subsections (B)(1) through (B)(4) upon a showing that such representation should be permitted in the interest of justice and will not obstruct the examination or investigation. If a lawyer is not permitted to represent a witness under subsection (B), that lawyer's partners or associates of the lawyer's law firm are also precluded from representing the witness.

D. All formal interviews may be recorded by the Division either mechanically or by a shorthand reporter employed by the Division. No other recording of the formal interview will be permitted, except summary note taking.

E. Unless permitted in the discretion of the Division, no witness or lawyer accompanying such witness shall be permitted to be present during the formal interview of any other witness testifying in a nonpublic examination or investigation. No person not employed by the Commission or the Attorney General shall be present during a formal interview except that the Division may authorize members of law enforcement or other state, federal, or self-regulatory agencies to be present during such formal interview.

F. The Division may exclude from a formal interview any person previously permitted to attend the formal interview, including a lawyer, whose conduct is dilatory, obstructionist, or contumacious. In addition, the members of the staff of the Division conducting the formal interview may report the conduct to the Director for appropriate action. The Director may thereupon take such further action as circumstances may warrant, including, but not limited to, exclusion from further participation in the examination or investigation.

G. A person who has submitted documentary evidence or testimony in connection with a formal interview shall be entitled, upon written request, and upon proper identification, to inspect the witness' own testimony on a date to be set by the Director. The Director may delay the inspection of the record until the conclusion of the examination or investigation if, in the Director's discretion, the Director determines that earlier inspection may obstruct or delay the examination or investigation.

H. In connection with an examination or investigation, the Director may delegate authority to members of the staff to administer oaths and affirmations, sign subpoenas, take evidence, and receive books, papers, contracts, agreements or other documents, records, or information, whether filed or kept in original or copied form or electronically stored or recorded.

I. During a formal interview, a witness shall not knowingly make any untrue statements of material fact or omit to state any material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

Historical Note

Adopted effective October 31, 1979 (Supp. 79-5).
Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-306. Notice of an Opportunity for a Hearing and Notice of a Hearing

A. The Commission may issue a notice of an opportunity for a hearing or a notice of a hearing to determine whether to issue a cease-and-desist order, order of rescission, restitution, or penalties, or other order authorized pursuant to the provisions of the Securities Act or the IM Act.

B. A notice of an opportunity for a hearing and a notice of a hearing shall be served by any method permitted in R14-4-304. A notice of an opportunity for a hearing shall set forth that the respondent will be afforded a hearing upon request to docket control of the Commission if the request is made in writing within 10 days after receipt of the notice by the respondent.

C. When a respondent requests a hearing pursuant to a notice of an opportunity for a hearing in accordance with the provisions of this rule, the Commission shall set a date, time, and place for the hearing and shall forthwith notify the respondent. The date set for the hearing shall be within 30 days, but not earlier than 15 days, after the written request for hearing has been made, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission.

Historical Note

Adopted effective November 19, 1987 (Supp. 87-4).
Amended effective February 7, 1992 (Supp. 92-1).
Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-307. Temporary Cease-and-desist Orders

A. When the Division determines that the public interest will be harmed by delay in issuing an order to cease-and-desist, the Division may, with the consent of the Commission, issue a temporary cease-and-desist order which will be in effect for 120 days or until vacated, modified, or made permanent in accordance with this rule, whichever comes first.

B. Temporary cease-and-desist orders shall be served pursuant to the provisions of R14-4-304.

C. The temporary cease-and-desist order shall set forth that the respondent will be afforded a hearing upon request to docket control of the Commission if the request is filed in writing within 20 days of service of the temporary cease-and-desist order. If a request for a hearing is not filed within 20 days, the Commission may, by written findings of fact and conclusions of law, vacate, modify, or make permanent the temporary cease- and-desist order.

D. When a respondent requests a hearing in accordance with the provisions of this rule, the Commission shall set a date, time, and place for the hearing and shall forthwith notify the respondent. The date set for the hearing shall be within 15 days, but not earlier than 5 days, after the written request for hearing has been filed, unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. The Commission may, after such hearing, by written findings of fact and conclusions of law, vacate, modify, or make permanent the temporary cease-and-desist order.

Historical Note

Adopted effective November 19, 1987 (Supp. 87-4).
Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

R14-4-308. Rescission and Restitution

A. Where there has been a violation of the Securities Act or the IM Act, or any rule or order of the Commission, the person or persons responsible for the violation may be required, pursuant to the Securities Act or the IM Act, to make rescission and/or restitution as provided herein.

B. Where a rescission offer is ordered by the Commission,

1. The following materials must be filed with and receive prior approval from the Director before distribution to the purchasers:
   a. A written offer to repurchase stating in reasonable detail the facts out of which liability arose and, in the event of a violation of A.R.S. § 44-1991, 44-1992, or 44-3241, the correct, true, or omitted facts.
   b. An offer to repurchase the security shall include an offer of:
      i. Cash (or, if the Commission determines it is in the public interest, other property) equal to the fair market value of the consideration paid (determined as of the date such payment was originally paid by the buyer) or such lesser amount as shall be ordered by the Commission (if it determines that it is in the public interest to order such lesser amount); together with
      ii. Such amount or rate of interest as shall be ordered by the Commission for the period from the date of purchase payment to the date of repayment; less
      iii. The amount of any principal, interest, or other distributions received on the security for the period from the date of purchase payment to the date of repayment.
   c. The offer to repurchase shall be accompanied by a prospectus and other documents making full written disclosure about the financial and business condition of the issuer and the financial and business risks associated with the retention of the securities and contain any such further information as the Commission may require.
   d. The offer to repurchase shall state that such offer may be accepted by the purchaser at any time within a specified period of not less than 30 days after the date of receipt thereof unless a shorter period of time is ordered by the Commission.
2. The offer and any other materials required to be presented to the purchaser shall be made within a period specified by the Commission.
3. Financial statements prepared in accordance with R14-4-120, A.R.S. § 44-3159, or other appropriate documentation as requested by the Director or the Commission, shall be provided to the Director. The financial statements or documentation shall demonstrate that the person or persons funding the rescission offer has or have adequate funds to pay the amount ordered pursuant to sub-

section (B)(1)(b) to all purchasers of the securities who are eligible to accept the rescission offer. The funding of the rescission offer may be provided by the seller, issuer, or other 3rd party.

4. The Commission may order that funds be deposited in escrow as the Commission deems necessary.
5. When the rescission offer has been completed and the appropriate funds paid, the person funding the rescission offer must verify to the Director that the rescission offer was made in accordance with this rule. The verification may be performed by an independent 3rd party, such as an accountant or escrow agent, and by providing the pertinent records documenting the rescission offer to the Director. The following information must be included unless otherwise ordered by the Commission:
   a. Names, addresses, and telephone numbers of all securities holders of the issuer who had a right to receive the rescission offer, the amount and purchase dates of securities held by such securities holders, and the amount of principal, interest, or other distributions on all securities held by such securities holders;
   b. Names, addresses, and telephone numbers of all securities holders of the issuer who did not receive the rescission offer and the reason why they did not receive the rescission offer, the amount and purchase dates of securities held by such securities holders, and the amount of principal, interest, or other distributions on all securities held by such securities holders;
   c. Verification of receipt of the rescission offer by all securities holders who had a right to and did receive the rescission offer;
   d. A list of securities holders who accepted the rescission offer and those who did not accept;
   e. Verification of payment of principal and interest ordered to be paid to all such securities holders who accepted the rescission offer.

C. Where restitution is ordered by the Commission,

1. The amount payable as damages to each purchaser shall include the amount computed under subsection (B)(1)(b) less the amount of any sale proceeds received on disposal of the security if it was sold at any time by the purchaser.
2. Financial statements prepared in accordance with R14-4-120, A.R.S. § 44-3159, or other appropriate documentation as requested by the Director or the Commission, shall be provided to the Director. The financial statements or documentation shall demonstrate that the person paying restitution has adequate funds to pay all purchasers the amount computed in subsection (C)(1).
3. The Commission may order that funds be deposited in escrow as the Commission deems necessary.
4. The Commission may order the respondent to provide the following information to the Division:
   a. Names, addresses, and telephone numbers of all securities purchasers who had a right to receive restitution under the Commission's order; amount and purchase dates of securities purchased by such purchasers; fair market value of any non-cash consideration received by respondent from each purchaser of such securities; and any payment of principal, interest, or any other distribution on such security.
   b. Verification of payment of principal and interest ordered to be paid to all such purchasers.

Historical Note

Adopted effective November 19, 1987 (Supp. 87-4). Amended effective December 21, 1995, under an exemption from the Attorney General approval requirements of the Arizona Administrative Procedure Act (Supp. 95-4).

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

CHAPTER 5. CORPORATION COMMISSION TRANSPORTATION

Editor's Note: The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)). This exemption means that the rule was not certified by the Attorney General. Because this Chapter was filed under a rulemaking exemption, as determined by the Corporation Commission, other than a statutory exemption, the Chapter is printed on green paper.

New Article 2 consisting of Sections R14-5-201 through R14-5-205 adopted effective October 23, 1987.

Former Article 1 consisting of Sections R14-5-01 through R14-5-103, Article 2 consisting of Sections R14-5-201 through R14-5-203, Article 3 consisting of Sections R14-5-301 through R14-5-324 repealed effective September 30, 1982.

Former Article 4 consisting of Sections R14-5-401 through R14-5-403, R14-5-405 through R14-5-407 renumbered as Article 1, Sections R14-5-101 through R14-5-106 effective September 30, 1982.

Former Section R14-5-408 repealed effective September 30, 1982.

New Section R14-5-107 adopted effective September 30, 1982.

Former Section R14-5-409 renumbered as R14-5-108 effective September 30, 1982.

ARTICLE 1. RAILROADS

Section
R14-5-101. Definitions
R14-5-102. Adoption of Federal Regulations
R14-5-103. Unauthorized Passengers
R14-5-104. Railroad-Highway Crossings
R14-5-105. Railroad Accident/Incident Reports; Investigation
R14-5-106. Minimum Standards for Cabooses
R14-5-107. Minimum Standards for Locomotives
R14-5-108. Inspection of property
R14-5-109. Industrial Track Standards
R14-5-110. Walkway and Clearance Standards
R14-5-111. Crew Requirements
R14-5-112. Reserved
R14-5-113. Hazardous Materials
R14-5-114. End-of-train Device
R14-5-115. Train Composition
R14-5-116. Civil Penalty
Appendix 1. Walkways Along Main Tracks Along Short Line & Branch Line - One Track
Appendix 2. Walkways Along Main Tracks Along Short Line & Branch Line - Two Tracks
Appendix 3. Walkways at Main Line Switches Entering Yards and Serving Industry Tracks Except as Provided in Standard No. 4 - Walkways to be Level with Ties
Appendix 4. Walkways Where Switches are Power Operated
Appendix 5. Walkways in Yards and Points Where Industrial Switching is Performed But Not Less Than 50 Feet in Advance of Switch
Appendix 6. Requirements for Walkways Adjacent to Tracks
Appendix 7. Typical Clearance of Structures from Railroad Tracks
Appendix 8. Highway Crossing Sign

ARTICLE 2. PIPELINE SAFETY

Section
R14-5-201. Definitions
R14-5-202. Construction and Safety Standards
R14-5-203. Pipeline Incident Reports and Investigations
R14-5-204. Annual Reports
R14-5-205. Master Meter System Operators

ARTICLE 1. RAILROADS

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-5-101. Definitions

As used in this Article:

1. "Car stop" means a device installed or constructed at the end of a spur track to prevent railroad cars from going off the rails.
2. "Commission" means the Corporation Commission.
3. "Configuration of a public railroad-highway grade crossing" means the physical characteristics of the crossing, including, but not limited to, size and type of warning devices, path of the roadway over the railroad track or tracks, warning signs, pavement markings, and roadway crossing surface.
4. "Constructive placement" means cars cannot be delivered to the designated private siding because of the inability of the consignee to receive them. The cars are placed in a sliding, another private track, or interchange track near the consignee's facility until such time as they can be delivered to the consignee.
5. "Event recorder" means a device located in the locomotive that records information reflecting the operation of the train, including on speed, elapsed time, direction of travel, load (amps), automatic brakes, dynamic brakes, and throttle settings.
6. "Hazardous materials" means any hazardous substance as defined by A.R.S. § 49-201(16)(a), (b), (c), (e), and (f).
7. "Highway authority" means the county, municipal, or other local board or body exercising jurisdiction over highways under the laws of this state.
8. "House track" means a track adjacent to or entering a freight house, used for the primary purpose of receiving or delivering freight.
9. "Industrial track" means a track or portion of track over which a railroad operates but which the railroad does not own or maintain either the rails, ties, or roadbed; or a track or portion of track which is devoted to the purpose of the user, either by lease or written agreement, in which case the lease or written agreement shall be considered as equivalent to ownership.
10. "Ladder track" means a track connecting successively the body of tracks of a train yard.
11. "Locomotive" means a self-propelled vehicle running on rails and generating or converting energy into motion for the primary purpose of hauling rail cars.
12. "Overhead clearance" means the vertical distance from the level of the top of the highest rail to a structure or obstruction above.
13. "Person" means any individual, firm, joint venture, partnership, corporation, association, municipality, governmental unit, department, or agency and shall include any trustee, receiver, assignee, or personal representative thereof.
14. "Private grade crossing" means any crossing where a legal agreement exists between a private property owner and a railroad company for the exclusive use of the landowner and the landowner's invitee.
15. "Public grade crossing" means any crossing, used by the general public, for which a legal agreement between a private property owner and a railroad company does not exist.
16. "Rail gage" means the distance between the heads of the rails, measured at right angles to the rails in a plane 5/8 of an inch below the top of the railhead. Standard gage is 4 feet, 8 ½ inches.
17. "Railroad" means every railway, other than a street railway, operated for public transportation of persons or property.
18. "Reconstruction" means the use of more than 50% of the material necessary to replace an entire structure or facility, or more than 50% of the current value of an entire installation.
19. "Side clearance" means the shortest distance from the centerline of track to a structure or obstruction at the side of the track.
20. "Spur track" means a stub track of indefinite length diverging from a main track or other track.
21. "Team track" means a track subject to general use by the public for the loading or unloading of freight cars.
22. "Unauthorized grade crossing" means any grade crossing that is not a public grade crossing or a private grade crossing or has not been issued an AAR/DOT crossing inventory.

Historical Note

Former General Order R-1; Former Section R14-5-401 renumbered as Section R14-5-101 effective September 30, 1982 (Supp. 82-5). Former Section R14-5-101 renumbered to R14-5-104, new Section R14-5-101 adopted effective May 28, 1992 (Supp. 92-2). Amended effective May 31, 1996 under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-5-102. Adoption of Federal Regulations

A. In the furtherance of its constitutional and statutory duty to promulgate and enforce safety regulations for public service corporations, the Commission adopts and approves as its own, subject to changes noted in subsection (E) below, 49 CFR 210, 213, 215, 216, 217, 218, 219, 220, 221, 223, 225, 228, 229, 230, 231, 232, 233, and 236, as amended and revised through October 1, 1989, which are incorporated by reference, are on file in the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, all being regulations of the Federal Railroad Administration, United States Department of Transportation, Railroad Safety regulations.

B. The Commission also adopts and approves as its own, 49 CFR 171 through 174, as amended and revised through November 1, 1989, incorporated herein by reference and on file with the Office of Secretary of State: 49 CFR 178 and 179, as amended and revised through November 1, 1989, incorporated herein by reference, on file with the Office of Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, all being part of the Research and Special Programs Administration, United States Department of Transportation, Hazardous Materials regulations as they apply to the shipment of hazardous materials by rail.

C. The regulations adopted in subsections (A) and (B) of this Section shall apply to all standard gage rail operations within Arizona. All terms defined in the adopted regulations shall apply unless redefined in R14-5-101.

D. A copy of the Federal Safety Standards is attached to the Article and is hereby made a part thereof as if set forth in full.

(This copy is not printed in this volume but is available in the offices of the Arizona Corporation Commission and the Secretary of State.)

E. The above-mentioned Parts of 49 CFR are changed, amended, or revised as follows:

1. Substitute "Arizona Corporation Commission" (ACC) where "United States Department of Transportation" (DOT), "Federal Railroad Administration" (FRA), "Federal Railroad Administrator", "Administrator" or "Research and Special Programs Administration" appear.
2. Substitute "Railroad Safety Section, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the United States Department of Transportation, Federal Railroad Administration, Federal Railroad Administrator, Office of Chief Counsel, or Research and Special Programs Administration appear.
3. Copies of all reports and forms required to be filed with the Federal Railroad Administration by Parts referred to in subsection (A) and the Research and Special Programs Administration by Parts referred to in subsection (B) of this Section shall be filed with the Railroad Safety Section, Arizona Corporation Commission, at its office in Phoenix, Arizona, within the same time limits required by the Federal Railroad Administration, and the Research and Special Programs Administration. Information pertaining only to that portion of the railroad's operations within the State of Arizona need be submitted.

F. If the Commission finds that a waiver of compliance or an exemption from any Section of the aforementioned Parts is in the public interest and is consistent with railroad safety, the Commission may grant the waiver or exemption subject to any conditions it deems necessary.

Historical Note

Former General Order R-2; Former Section R14-5-402 renumbered as Section R14-5-102 effective September 30, 1982 (Supp. 82-5). Former Section R14-5-102 repealed, new R14-5-102 renumbered from R14-5-107 and amended effective May 28, 1992 (Supp. 92-2).

R14-5-103. Unauthorized Passengers

Railroads operating within this State shall prohibit and prevent unauthorized persons from traveling in or upon the cars and equipment of their trains.

Historical Note

Former General Order R-3; Former Section R14-5-403 renumbered as Section R14-5-103 effective September 30, 1982 (Supp. 82-5).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-5-104. Railroad-highway Crossings

A. The following rules shall apply in the construction, reconstruction, improvement, and maintenance of all public railroad-highway grade crossings within the state of Arizona. This Section is intended to be consistent with the provisions of the Manual on Uniform Traffic Control Devices, as adopted by the Department of Transportation.

1. No construction project taking place at or near a public railroad-highway grade crossing shall diminish the safety normally provided to a motorist approaching the crossing by the existing warning devices.
2. No temporary change in the configuration of a public railroad-highway grade crossing, for the purpose of facilitating a construction project at or near the crossing, may be made by any person without 1st notifying the owner of the railroad track and the owner of the trains or other track equipment operating over such track in writing. The letter notifying the track owner and train/track equipment owner shall describe the date, place, and type of changes to be made. Such letter shall be written and signed by the responsible person for the project and shall constitute an affirmation that all temporary traffic control measures to be implemented due to the project shall be made in accordance with this rule and the Manual on Uniform Traffic Control Devices (MUTCD) Parts VI and 8A-5. Notice shall be sent by registered mail, return receipt requested, to the business address of the owner of the railroad track and the owner of trains or the track equipment operating over such track, or to the statutory agent at its known place of business, not less than 10 days prior to the commencement of the construction project.

B. Warning signals.

1. Railroad crossbucks.
   a. A railroad crossbuck shall be installed on the right-hand side of the public roadway on each approach to every crossing to warn motorists approaching from each direction, except at crossings where automatic control devices are in use in conformance with Appendix 8.
   b. If there are 2 or more tracks, the number of tracks shall be indicated on an auxiliary sign of inverted "T" shape mounted below the crossbuck, (See in conformance with Appendix 8).
   c. Crossbucks shall be located at not less than 15 feet from the centerline of the nearest track, and shall be in a position to be visible to motorists.
   d. Crossbucks shall be a reflectorized white "X" (48" X 9" panels drilled for a 90-degree mounting) with the words "RAILROAD CROSSING" in black letters.
   e. The distance that shall be assumed to separate tracks before additional crossbucks are considered necessary is 100 feet.
2. Automatically controlled crossing signals.
   a. At railroad-highway grade crossings where studies indicate the need for warning beyond that provided by crossbucks, the Commission may order that automatically controlled crossing signals be installed.
   b. Emergency stand-by power shall be provided for the operation of all automatically controlled crossing signals.
   c. Automatically controlled crossing signals shall be arranged to provide not less than 20 seconds warning for motorists.
   d. Signals shall operate until the rear of the last train using the crossing has cleared the crossing.
   e. Traffic signals located within 200 feet of railroad crossing signals shall be preempted by the railroad crossing signals.
   f. Where means are provided for cutting-out the automatically controlled warning devices during intervals when trains are making regular operating stops or performing switching operations on approach circuits, controls shall be arranged as follows:
      i. Controls shall be so designed as to provide operation of warning devices before a train reaches the crossing,

ii. Automatic control of warning devices actuated by approaching trains (other than the train that has stopped or is performing switching operations) shall take precedence over any cut-out feature.

g. Where manual supervisory control of warning devices is provided in addition to automatically controlled signals, the following shall govern:

i. Automatic control, when actuated by approaching trains other than the train for which manual control has been made effective, shall take precedence over manual control;

ii. Means shall be provided to restore the controls to automatic operation;

iii. Means shall be provided to prevent manual operation by unauthorized persons.

3. Flashing light signals.

a. Lamp units (center of lens), shall be located at not less than 8 feet, 4 inches, nor more than 10 feet, 4 inches above the crown of the roadway.

b. Signal lights shall shine in both directions along the roadway, and shall be mounted horizontally, 2 feet, 6 inches to centers.

c. Lamp units shall be arranged in pairs, back to back, except on 1-way streets or other roadways where highway traffic approaches from 1 direction only.

d. Lamp units shall be equipped with mountings to provide ready adjustments in all directions with positive locking for such adjustments.

e. Lamp units shall be provided with hoods of not less than 12 inches in length and with backgrounds 20 inches in diameter. Hoods and backgrounds shall be in black, except that when backlights are omitted, the back of the lamp unit and background shall be aluminum-colored so that the signal will not be mistaken for a dark signal.

f. Lamp units installed after the effective date of this Section shall have lenses or roundels, red in color, not less than 12 inches in diameter for both front and rear indications. Lamp units in use prior to the adoption of this Section shall be made to meet this requirement when the automatic warning devices are upgraded, improved, or reconstructed.

g. The beam spread shall be not less than 3 degrees each side of the axial beam under normal conditions. Throughout the beam spread, the intensity of the beam shall not be less than 50% of the intensity at the axis.

h. Lights shall flash alternately at a minimum rate of 45 flashes per minute and a maximum rate of 65 flashes per minute.

i. The effective range of flashing lights equipped with 10 volt, 10 watt lamps, or equivalent, burning at rated voltages, shall be not less than 1,000 feet under bright sunlight conditions with the sun at or near its zenith.

4. Highway traffic control signals shall not be used on mainline railroad crossings in lieu of flashing light signals. However, at industrial track crossings and other places where train movements are 10 miles per hour or less, highway traffic control signals may be used in lieu of conventional flashing light signals.

5. Bell warning signals. At least 1 automatic gong-type bell shall be used with each flashing light signal except on median strip installations.

6. Automatic gate arm signals.

a. Signals consisting of a combination of flashing lights, bells, and automatic gate shall, when indicating the approach or presence of trains, present towards the highway the appearance of horizontally flashing red lights and of a horizontal arm or arms extending over the traveled roadway a sufficient distance to cover the lane or lanes used by highway traffic approaching the crossing.

b. Automatic gate arms, when not indicating the approach or presence of trains, shall not obstruct or interfere with highway traffic, except as provided in subsection (B)(4)(d).

c. Automatic gate arms shall be mounted on posts or housing containing the arm-operating mechanism.

d. The design of the gate-opening mechanism shall be such as to insure proper operation during unfavorable weather conditions. In case of power failure, the gate arm shall assume the horizontal position across the roadway.

e. The mechanism shall be so designed that if the arms, while being raised or lowered, strike or foul an object they will readily stop, and on removal of the obstruction shall assume the position corresponding to the control mechanism.

f. Each gate arm extending over the roadway shall have 3 red lights, with lenses not less than 7 inches in diameter, shining in both directions along the roadway, so positioned as to insure as far as possible, that no vehicle or vehicles standing in the limits of the traffic lane or lanes approaching the crossing can obscure all 3 lights from the view of the drivers of the following vehicles. The light nearest the tip of each arm shall burn steadily, and the other 2 lights on each arm shall flash alternately in unison with the flashing lights on the roadside signal mast.

g. The gate arm shall, on new installations, be striped with 16 inch alternate diagonal reflectorized or fluorescent stripes of red and white.

h. Circuits for operation of signals shall be so arranged that the flashing lights, gate arm lights, and bell will start to operate at not less than 20 seconds before the arrival of the fastest train at the crossing. All lights shall operate at all times when the gate arm is in a position to obstruct highway traffic. The bell shall sound a warning from the time the signal lights start to operate at least until the gate arm has descended to within 10 degrees of the horizontal position.

i. Gate arms shall start their downward motion at not less than 3 seconds after the signal lights start to operate. Gate arms shall reach the full horizontal position before the arrival of the fastest train operated over the crossing and shall remain in that position until the rear of the train has cleared the crossing.

j. The bottom of the gate arms when in the horizontal position shall be not less than 3 feet nor more than 4 feet above the crown of the roadway.

k. Gate arms shall operate uniformly, smoothly, and complete all movement without slap or rebound, and be securely held when in the raised position.

7. Maintenance.

a. Metal parts shall be aluminum or painted aluminum, except as provided in subsection (B)(3)(e).

b. All materials and workmanship shall meet or exceed current industry standards in every respect, and every warning signal and sign in all details shall be

constructed, installed, and maintained in a satisfactory manner.

c. The railroad shall provide for the maintenance of all grade crossing warning signs and signals. To this end, the railroad shall:

i. Provide for alternate operations of automatically controlled warning signals during periods of failure, either manually or otherwise, as soon as possible after the failure has occurred;

ii. Have skilled maintenance personnel available without undue delay for all emergency calls, including lamp failures;

iii. Provide proper maintenance for all components;

iv. Maintain the appearance of the installation in a satisfactory manner, with particular emphasis on painting and cleaning of optical systems;

v. Inspect warning signals at a frequency of not less than once every 45 days. A written record of inspection shall be retained at the railroad's office within Arizona.

vi. Provide standby equipment at a central location to minimize the interruption of signal operations due to equipment failure or damage.

8. Whistle posts.

a. Whistle posts bearing the letter "X" or "W" shall be located in advance of each public crossing at grade to warn locomotive engineers of the presence of the highway grade crossing, and allow them sufficient time to sound the warning whistle.

b. A person in charge of a railroad locomotive shall, before crossing any traveled public way, cause the bell to ring or a whistle, siren, or other sounding device to sound at a distance of at least ¼ mile from a crossing and until it is reached.

C. Additional requirements.

1. When necessary to shove a railroad car or cars over a public grade crossing not having automatically controlled crossing signals, employees shall flag the crossing.

2. When, during normal train operations at night, it becomes necessary to block a public grade crossing with standing railroad cars, and the crossing does not have automatically controlled crossing signals, flares, or fusees, shall immediately be placed in the center of the roadway on both sides of the track at not less than 10 feet from the railroad car or cars to warn motorists that the crossing is occupied.

3. Detached railroad cars containing explosive or hazardous materials shall not be left standing on any grade crossing at any time.

4. Before moving onto any public railroad-highway grade crossing, operators of any on-track equipment, including high-rail vehicles, shall insure that the automatic warning devices are activated or the crossing protected by a flagman. Public grade crossings without automatic warning devices shall be flagged by a flagman.

5. It shall be unlawful for railroad employees to "drop" or "kick" any railroad car or cars containing hazardous materials across a grade crossing in any circumstances or any other railroad car or cars across a grade crossing unless the crossing is flagged by a flagman or traffic is restricted by automatic gate arms.

6. Grade crossing maintenance and repair shall be conducted as follows:

a. Whenever a highway intersects a railroad track at common grade, the appropriate highway authority shall maintain and keep in repair the roadway approaches to within 2 feet of the outside of either rail, and the railroad shall maintain the planking or other materials between the rails and for 2 feet on the outside thereof.

b. At crossing involving more than 1 track, maintenance by the railroad shall include that portion of the crossing:

i. Between the tracks not exceeding 20 feet from the center of the tracks, and

ii. Two feet on the outside of each of the 2 outside (field site) rails.

c. Unless the Commission otherwise authorizes, public grade crossings hereafter constructed shall be not less than 24 feet in effective roadway width measured at right angles with the centerline of the roadway.

d. Turnouts, switches, and frogs or bolted rail joints shall be so placed or relocated as to avoid placement in the paved area of a crossing.

e. Materials for permanent repairs on any component of a railroad-highway grade crossing surface shall be of the same type and quality or of equal quality to those which are being repaired or replaced.

f. Temporary repairs shall be made until the arrival of materials necessary for permanent repairs. Temporary repair shall be made within 5 working days of the date that the railroad is notified of the defect by the Commission. Permanent repairs shall be completed within 90 days from the date of notification.

g. The railroad shall coordinate with the highway authority any road closures and reopenings caused by the maintenance and repair of grade crossing.

h. The railroad shall stencil the AAR/DOT inventory number on all railroad-highway crossings.

7. Blockage of public grade crossing shall be limited as follows:

a. Except as provided in subsections (B)(7)(c) and (d), no railroad shall cause a public grade crossing to be blocked by railroad equipment in excess of 10 continuous minutes.

b. Each period of crossing blockage shall be followed by an interval of time sufficient to allow the passage of waiting traffic.

c. The limitations set forth in subsection (B)(7)(a) do not apply to:

i. Any train continuously moving in the same direction during the entire time it occupies the crossing; and

ii. Blockage caused by wrecks, derailments, acts of nature, mechanical failure, or other emergency conditions.

d. The Commission, after hearing, may grant variances from the limitations set forth in subsection (B)(7)(a), upon proper application by the railroad or appropriate highway authority.

8. A crew member of a train blocking a public crossing shall immediately take all reasonable steps, consistent with the safe operation of such train, to clear the crossing upon receiving information from a peace officer, as defined in A.R.S. Title 13, member of any fire department or operator of an emergency vehicle, as defined in A.R.S. § 28-101.1, that emergency circumstances require the clearing of the crossing.

9. The railroad shall coordinate road closures and reopenings during emergency blockages with the appropriate highway authority.
10. When authorization for preliminary engineering and estimate or any federal-aid funding crossing improvement projects is submitted to the railroad, it shall be completed by the railroad and returned to the Department of Transportation within 60 days.
11. The railroad shall notify the Commission, in writing, within 10 days of both the commencement and completion of the project. The railroad shall tender a statement to the Commission reflecting the Commission's portion of such charges pursuant to A.R.S. § 40-337.02, within 60 days of completion of the project.
12. Federal-aid crossing improvement projects shall be completed within 15 months from the date of the Commission Order.
13. The Commission may approve an exception to any of the requirements of this Section. Such exceptions may be made upon the Commission's own initiative or upon written request from an interested party. Written requests shall contain a statement of the circumstances involved, the nature of the exception desired, and the reasons justifying such an exception. An exception shall be limited to the particular situation described in the written requests.

Historical Note

Former General Order R-5; Former Section R14-5-405 renumbered as Section R14-5-104 effective September 30, 1982 (Supp. 82-5). Amended Subsection (H) effective April 16, 1986 (Supp. 86-2). Former Section R14-5-104 repealed, new Section R14-5-104 renumbered from R14-5-101 and amended effective May 28, 1992 (Supp. 92-2). Amended effective May 31, 1996 under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-2).

R14-5-105. Railroad Accident/Incident Reports; Investigation

A. Reports by telephone.
1. Railroads shall give the Commission immediate telephone notification of the following classes of accidents/incidents:
   a. Accidents resulting in death;
   b. Accidents resulting in injury requiring immediate hospitalization;
   c. Accidents resulting in damage to railroad property in excess of the amount for which the Federal Railroad Administration requires an accident report to be filed;
   d. Accidents or incidents in which any hazardous materials are involved;
   e. All public railroad-highway grade crossing accidents;
   f. All accidents/incidents involving rail passenger operations.
2. The immediate telephone notification shall include but not be limited to the following:
   a. Name of person making the telephonic report;
   b. Name of railroad or railroads involved;
   c. Location of accident/incident;
   d. Number of fatalities;
   e. Number of injuries;
   f. Number of derailed cars;
   g. Generic name or names of the hazardous materials involved, including the name, address, and the telephone number of the shipper.

B. Federal reports of accidents/incidents -- Railroads shall submit to the Commission copies of all accident/incident reports and supplements filed with the Federal Railroad Administration and the Hazardous Materials Regulation Board for accidents/incidents occurring in Arizona. Said reports shall be submitted to the Commission within the time specified for submitting to the Federal Railroad Administration. Said reports shall include:
1. FRA F 6180.54 -- Rail Equipment Accident/Incident Report;
2. FRA F 6180.55 -- Railroad Injury and Illness Summary;
3. FRA F 6180.55a -- Railroad Injury and Illness (Continuation Sheet);
4. FRA F 6180.56 -- Annual Railroad Report of Man-Hours by State;
5. FRA F 6180.57 -- Rail-Highway Grade Crossing Accident/Incident Report;
6. FRA F 6180.45 -- Annual Summary Report of Railroad Injury and Illness;
7. DOT F 5800.1 -- Hazardous Materials Incident Report.

C. Investigations by the Commission.
1. Commission investigators shall investigate accidents, may inspect railroad records, accounts, books, memoranda, correspondence, and other documents, and may examine all lands, buildings, and equipment of railroads. Commission investigators may obtain all relevant information concerning accidents under investigation, make inquiries of persons having knowledge of the facts, conduct interviews, and attend, as observers, hearings or formal investigations by railroads into the causes of accidents. When necessary to carry out an investigation, the Commission may authorize the issuance of subpoenas to require the production of records and the giving of testimony.
2. Whenever necessary, the Commission will schedule a public hearing on an accident.
3. Incomplete or inaccurate reports will be investigated by the Commission. Incomplete or inaccurate reporting practices may be grounds for a public hearing into the matter.
4. Late reports shall be accompanied by a letter of explanation. Late reports may be grounds for a public hearing into the matter.

D. All railroads operating wholly or partially within the state of Arizona shall give the Commission immediate telephone notification of accidents/incidents as prescribed herein. All accidents/incidents not reported in accordance with the provisions of this Section shall be investigated by the Commission.

Historical Note

Former General Order R-6; Former Section R14-5-406 renumbered as Section R14-5-105 effective September 30, 1982 (Supp. 82-5). Amended subsections (A), (B), (D), and (F) effective April 16, 1986 (Supp. 86-2). Amended effective May 28, 1992 (Supp. 92-2).

R14-5-106. Minimum Standards for Cabooses

A. Each railroad operating wholly or partially within the state of Arizona shall hereafter install and maintain minimum standards on cabooses in accordance with this Section.

B. No caboose shall be used in service unless it complies with subsections (C) through (R) of this Section.

C. Construction: Cabooses shall be of either the cupola or bay window type. Cabooses of metal construction shall have wooden or insulated metal floors. A cupola shall not extend inward toward the centerline of the car more than three inches from either side of the caboose.

D. Trucks: Trucks shall provide riding qualities at least equal to those of freight type trucks modified with elliptic or additional coil springs or other means of equal or greater efficiency and shall be equipped with steel wheels.

E. Draft gears: Draft gears shall have a minimum travel of 2 ½ inches and a minimum capacity of 18,000 foot pounds. Draft gears shall be of rubber or a combination of friction and rubber types, or shall have other means of providing equal shock control.

F. Lighting: An adjustable, shielded electric light, or lights, shall be provided for the direct illumination of the caboose desk. A ceiling or wall light, or lights, operable from separate switches shall be provided to otherwise illuminate the caboose interior. The area of the drinking water and lavatory facilities shall be illuminated. The caboose marker, or markers, shall be electrically lighted.

G. Heating: A heating facility shall be maintained and shall be capable of providing a temperature of at least 70 degrees Fahrenheit in a standard caboose.

H. Seats and cushions: Seats and cushions shall be provided with a shock absorbent material initially at least three inches in thickness, and backrests shall be of sufficient height to protect the neck and head from injuries. Seats in cupolas shall be of the pullman type and those in bays shall be of the passenger reversible type. The top of said seats shall not be lower than 11 inches nor higher than 9 inches beneath the cupola or bay window sills and no more than 18 inches above the floor or footrest. The backrests shall incline backward to not less than 3 inches nor more than five inches from the perpendicular. Subject to the approval of the Commission, seats of different design or materials may be used when such design or materials provide equal or better protection or comfort than those enumerated in this Section.

I. Bunks: Each caboose shall have at least one bunk of not less than 2 feet in width and not less than 6 feet in length which shall be provided with a cushion of the same dimensions made of shock absorbent material initially of at least 3 inches in thickness.

J. Wind deflector: Each cupola side window shall be equipped with a wind deflector.

K. Weatherstripping: Weatherstripping or weatherproof sash shall be installed and maintained at all windows and doors to protect against weather and the seepage of dirt or dust.

L. Window shades: With the exception of windows in bays and cupolas, windows shall be equipped with shades.

M. Stanchions: Stanchions, grab handles, or bars shall be installed at entrances and exits and at other locations within convenient reach of employees moving about the caboose while a train is in motion.

N. Drinking water: Caboose drinking water facilities shall be installed and maintained so as to provide fresh and pure drinking water. Such water facilities shall include individual bottled water containers placed in an ice chest. When ice is used for water cooling purposes, the containers shall be so arranged that the drinking water will not come in contact with the ice. Containers used for storing or dispensing potable water shall be kept clean at all times and shall be subjected to effective bactericidal treatment as often as may be necessary to prevent the contamination of the water so stored and dispensed.

O. Lavatory facilities: Caboose lavatory facilities for washing shall be provided at a location where the use thereof will not result in contamination of the drinking water dispensing system. All cabooses shall have operative toilets which are illuminated, are kept clean and free of noxious odors at all times, and are subjected to effective bactericidal treatment as often as may be necessary.

P. Fire extinguisher: Cabooses used in road service shall be equipped with an effective means of extinguishing minor fires. Such extinguishing agents shall be placed in a readily accessible location and shall be effectively maintained.

Q. First-aid kit: Each caboose shall carry, in a visible and readily accessible place, a plainly marked first-aid kit which shall be so constructed that it and its entire contents are readily removable. The kit shall consist of materials, approved by the railroad's consulting physician, in a weatherproof container with individually sealed packages for each type item. The contents shall be inspected weekly to insure that expended items are replaced.

R. Maintenance and supplies: Cabooses shall be supplied with fresh water, paper towels, toilet tissue, sanitary drinking cups, fuel, ice as needed, hand soap or other cleaning agents in appropriate dispensers and such other equipment as may be required for service.

S. Conditions arising after departure from terminal: In the event of a failure of required equipment or standards of maintenance occurs in a caboose after it has commenced a move in service, the railroad operating that caboose shall not be deemed in violation of this Section if said failure of equipment or standards of maintenance is corrected at the first point at which maintenance supplies are available, or, in the case of repairs, the first point at which materials and repair facilities are available and repairs can reasonably be made.

T. Exemption: If, in any particular case, an exemption from any of the requirements of this Section is deemed necessary by a carrier concerned, the Commission will consider the application of such carrier for such exemption when accompanied by a full statement of the conditions existing and the reason why such exemption is needed. Any exemption so granted will be limited to the particular case covered by the application.

Historical Note

Former General Order R-7; Former Section R14-5-407 renumbered as Section R14-5-106 effective September 30, 1982 (Supp. 82-5). Correction in heading effective April 16, 1986 (Supp. 86-2). Amended effective May 28, 1992 (Supp. 92-2).

R14-5-107. Minimum Standards for Locomotives

A. Each railroad operating wholly or partially within the state of Arizona shall hereafter install and maintain minimum standards on locomotives in accordance with this Section.

B. All of the following requirements shall be met:

1. Locomotives used in or through the state of Arizona shall be equipped with an effective means of extinguishing minor fires. Such extinguishing agents shall be placed in a readily accessible location and shall be effectively maintained.
2. Each locomotive shall carry, in a visible and readily accessible place, a plainly marked first-aid kit which shall be so constructed that it and its entire contents are readily removable. The kit shall consist of materials, approved by the railroad’s consulting physician, in a weatherproof container with individually sealed packages for each type item. The contents shall be inspected weekly to insure that expended items are replaced.
3. Each train operated in or through the state of Arizona at a speed in excess of 30 miles per hour shall have at least one locomotive equipped with an operating event recorder. Such event recorders shall be inspected at least once every 90 days and maintained in a fully operative condition.
4. All locomotives shall have operative toilets which are illuminated, are kept clean and free of noxious odors at

all times, and are subjected to effective bactericidal treatment as often as may be necessary.

5. Drinking water facilities shall be installed and maintained so as to provide fresh and pure drinking water. Such water facilities shall include individual bottled water containers placed in an ice chest. When ice is used for water cooling purposes, the containers shall be so arranged that the drinking water shall not come in contact with the ice. Containers used for storing or dispensing drinking water shall be kept clean at all times and shall be subjected to effective bactericidal treatment as often as may be necessary to prevent the contamination of the water so stored and dispensed.
6. Locomotives shall be supplied with fresh water, paper towels, toilet tissue, sanitary drinking cups, ice as needed, and such other equipment as may be required for service.

C. A locomotive operating in a controlling position shall have an operating 2-way radio that is on a frequency for the railroad being operated on and is capable of contacting the train dispatcher or other responsible railroad personnel.

D. If, in any particular case, an exemption from any of the requirements of this Section is deemed necessary by a carrier, the Commission shall consider the application for such exemption as needed. Any exemption so granted shall be limited to the particular case covered by the application.

Historical Note

Adopted effective September 30, 1982 (Supp. 82-5). Amended Subsections (A) and (B) effective April 16, 1986 (Supp. 86-2). Former Section R14-5-107 renumbered to R14-5-102, new Section R14-5-107 adopted effective May 28, 1992 (Supp. 92-2).

R14-5-108. Inspection of property

For the purpose of insuring compliance with safety rules and regulations, the Commission, or any authorized inspector or agent thereof, may, at any time, stop, board, ride, investigate, or inspect any train, locomotive, car, caboose, or any other rolling stock or equipment used by a railroad in the operation of their business.

Historical Note

Former General Order R-9; Former Section R14-5-409 renumbered as Section R14-5-108 effective September 30, 1982 (Supp. 82-5).

R14-5-109. Industrial Track Standards

A. This Section shall be applicable to all industrial track construction, reconstruction and repair commencing after the effective date of this Section.

1. The industry and the railroad contractor shall be responsible for notifying the Commission in writing prior to the construction, reconstruction, or alteration of industrial track, structures, or facilities adjacent thereto.
2. The proposed design plans of any construction, reconstruction, or alteration of industrial track shall be submitted to the Commission, Railroad Safety Section, Phoenix, Arizona, prior to any construction, reconstruction or alteration of industrial track.

B. The following construction standards shall apply for all industrial track:

1. Profile:
   a. Maximum grade of any proposed track, as shown on any plan, shall be two percent and shall not be exceeded. At all locations, excessive grades and frequent changes of grade shall be avoided. Where grade line changes, appropriate vertical curves shall be installed.
   b. In cut sections, grade line shall be uniform throughout the cut to facilitate proper drainage. Grades in cuts shall not be less than 3/10 percent and not more than one percent.
2. Subgrade:
   a. Where soil condition, drainage conditions or amount of traffic justify, the upper portion of the subgrade shall be designed to provide adequate support. Methods of increasing support shall be to provide select material to an adequate supporting depth over the existing subgrade or subgrade stabilization.
   b. The depth of any proposed material shall be specified by the design plans.
   c. The upper portion of any subgrade to be stabilized shall be stabilized by thoroughly mixing suitable chemical additives such as cement, fly ash, or lime with the soil before compaction.
   d. Each layer shall be fully compacted by approved mechanical compacting equipment before the next layer is placed. A fully compacted layer shall have a dry density of at least 95 percent of the maximum dry density.
   e. Type of soil and soil conditions shall be indicated on any proposed plans along with typical sections showing rail, tie ballast, subballast, and any other appurtenances.
3. Drainage:
   a. Each drainage or other water-carrying facility under or immediately adjacent to the roadbed shall be maintained and kept free of obstruction to accommodate expected water flow for the area concerned.
   b. Every effort shall be made to keep the tracks, roadbed, and walkways properly drained at all times.
4. Ballast:
   a. Ballast material shall conform to the recommended specifications contained in the American Railroad Engineering Association "Manual for Railway Engineering" (AREA Manual), as amended and revised through July 31, 1990, incorporated herein by reference, on file with the office of the Secretary of State, and copies available from the American Railroad Engineering Association, 50 F Street NW, Washington, D.C. 20001. The gradation of a ballast material shall be a prime consideration in track performance of ballast materials. Ballast material used in industrial tracks shall be not less than ¾ of an inch to 1 ½ inches, pursuant to AREA No. 4 gradation in the AREA Manual.
   b. Ballast material may be crushed rock, slag, or equally stable material that will provide uniform support to the ties, will drain properly, and is not chemically reactive. The material used for ballast shall not short track signals. Quarried stone or slag produced in a crushing-screening plant shall be preferred when it satisfies all of the following specifications:
      i. A shrinkage factor of 12 percent to 15 percent in volume differential from loose to compacted state.
      ii. Processed ballast shall be composed of hard, strong, and durable particles free from excessive amounts of deleterious substances.
      iii. Deleterious substances shall not be present in processed ballast in excess of the following amounts:
         (1) Soft and friable pieces--five percent;

(2) Material finer than No. 200 sieve--one percent;

(3) Clay lumps--½ percent.

iv. Percentage of wear of processed ballast, tested in the Los Angeles machine, shall not be greater than 40 percent.

v. Soundness of processed ballast for use in regions where freezing temperatures are expected shall be such that when tested in the sodium sulfate soundness test, the weighted average loss shall be not in excess of seven percent after five cycles.

vi. Compacted weight of ballast shall be not less than 70 pounds per cubic foot for blast furnace-slag and 90 pounds per cubic foot for all other slags and crushed rock products.

vii. Flat or elongated particles, particles with length three times greater than average thickness, shall not exceed five percent by weight in the ballast.

c. Prior to installation, the supplier shall provide the railroad or industrial track owner with certified test results of ballast quality and grading.

d. Care shall be used to insure even distribution of ballast in the track. A minimum ballast depth of 8 inches below the ties shall be acceptable as a subballast base. Ballast shall be inserted under ties in convenient lifts but under not less than two lifts. Proper cross level, line and grade shall be attained on the final lift in accordance with currently accepted practice.

e. Top of track ballast shall be dressed parallel with top of rails to a depth of 1 inch below top of tie extending 6 inches beyond end of tie. Ballast shall be thoroughly tamped for each tie end to 15 inches inside of rail. Centers shall be filled but not tamped. All work of track laying and surfacing shall be of the highest quality in accordance with currently accepted practice.

f. Each owner of the track to which the ballast standards apply shall maintain proper track cross level, surface, and alignment prescribed as follows:

i. The runoff in any 31 feet of rail at the end of a rise may be not more than 3 ½ inches.

ii. The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may be not more than 3 inches.

iii. Deviation from designated elevation on spirals may be not more than 1 ¾ inches.

iv. Variation in cross level on spirals in any 31 feet may be not more than 2 inches.

v. Deviation from zero cross level at any point on tangent or from designated elevation on curves between spirals may be not more than 3 inches.

vi. The difference in cross level between any two points less than 62 feet apart on tangents and curves between spirals may be not more than 3 inches.

vii. Alignment may not deviate from mid-ordinate of a 62-foot chord more than 3 inches.

5. The material, preservative treatment, quality control, inspection, and miscellaneous requirements for timber crossties and switch ties shall conform with the recommendations of Chapter 3, “Ties and Wood Preservation” of the AREA Manual and all of the following:

a. Crossties shall be either hardwood or softwood in accordance with the requirements of this Section.

b. Wooden crossties shall be new and manufactured from the following kinds of wood: Douglas fir, red oak, white oak, cypress, southern and western pine, elm, hickory, gum, or hemlock.

c. All wooden ties shall be made from sound, straight live timber and shall be free from any defects that may impair their strength and durability, such as bark, decay, splits, shakes, large or numerous holes or knots, pitch seams, pitch rings, grain with slant greater than 1 in 15, or other imperfections.

d. All crossties shall be a minimum of 8 feet in length. Ties shall measure 6 inches thick by 8 inches wide on top, AREA No. six grade If a 6-inch wide base rail is used, 7-inch by 9-inch ties shall be required. All crossties shall be branded with the seller's symbol to indicate line end.

e. Crossties shall be spaced a maximum of 24 inches center to center. Each 39 feet of track shall be supported by a minimum of 19 crossties. The center of the ties shall coincide with the centerline of the track and the ties shall be laid at right angles to the rail with the wide-face up.

f. Hardwood ties shall be used on all curves of two degrees and over. Softwood ties shall be permitted on other curves and tangents.

g. Ties shall be inspected at suitable and convenient places satisfactory to the railroad or industry owner. Inspection shall include a reasonably close examination of the top, bottom, sides, and ends of each tie. All ties shall be judged independently using the following standards:

i. Decay shall be the disintegration of the wood substance due to the actions of wood destroying fungi. “Blue Stain” is decay and shall be permissible in all wood.

ii. A large hole shall be more than ½ inch in diameter and 3 inches deep within, or more than ¼ the width of the surface on which it appears and 3 inches deep outside, the sections of the tie between 20 inches and 40 inches from its middle. Numerous holes shall be any number equaling a large hole in damaging effect. Such holes may be caused in manufacture or otherwise.

iii. Within the rail bearing areas, a large knot shall be one having an average diameter more than 1/3 the width of the surface on which it appears; but such a knot shall be allowed if it is located outside the rail-bearing areas. Numerous knots shall be any number equaling a large knot in damaging effect.

iv. A shake shall be a separation along the grain, most of which occurs between the rings of annual growth.

v. A split shall be a separation of the wood extending from one surface to an opposite or adjacent surface. In unseasoned crossties, a split no more than 1/8 of an inch wide or 4 inches long shall be acceptable. In a seasoned crosstie, a split no more than ¼ of an inch wide or longer than the width of the face across which it occurs shall be acceptable. In seasoned crossties, a split exceeding the limit shall be acceptable provided split limitations and anti-splitting devices are approved by the buyer and properly applied.

vi. Except in woods with interlocking grain, a slant in grain in excess of 1 inch in 15 inches shall be rejected.

vii. In manufacture:

(1) A tie shall be considered straight:

(a) When a straight line along the top from the middle of one end to the middle of the other end is entirely within the tie; and

(b) When a straight line along a side from the middle of one end to the middle of the other end is anywhere more than 2 inches from the top and the bottom of the tie.

(2) The top and bottom of a tie shall be considered parallel if any difference in the thicknesses at the sides or ends does not exceed 1/8 of an inch.

viii. The lengths, thicknesses, and widths specified shall be minimum for the standard sizes. Ties over 1 inch longer, thicker, or wider than the standard size ordered shall be rejected.

ix. A bark seam or pocket shall be a patch of bark partially or wholly enclosed in the wood. Bark seams shall be allowed provided they are not more than 2 inches below the surface or 10 inches long.

x. Ties with continuous checks appearing on one face only, whose depth in a fully seasoned tie is greater than ¼ the thickness and longer than ½ the length shall be rejected.

h. The maximum distance between non-defective timber crossties shall be 70 inches, center of tie to center of tie.

i. A timber crosstie shall be considered defective when it is all of the following:

i. Broken through;

ii. Split or otherwise impaired to the extent that it will not hold spikes or will allow ballast to work through;

iii. So deteriorated that the tie-plate can move laterally more than ½ of an inch relative to the crossties;

iv. Cut by the tie-plate through more than 40 percent of its thickness; and

v. Not spiked as required by this Section.

j. Industry track shall have at least one non-defective crosstie whose centerline is within 18 inches of the rail joint location.

k. Used crossties, although not recommended, may be used subject to prior approval from the Commission.

l. Treated tie plugs of proper size shall be used to fill holes tightly and driven into old spike holes of used ties. Approved granular tie plug material may be used in lieu of treated tie plugs.

6. Switch ties:

a. Switch ties shall be new and shall be hardwood in accordance with the requirements of this Section. Switch ties shall be located as shown on the turnout plans.

b. All switch ties shall be 7 inches thick by 9 inches wide in cross section. Switch tie length shall be as indicated on the turnout plans in 1 foot increments.

c. All switch ties shall be sawed top, bottom and sides, cut square at the ends, have top and bottom parallel, and have bark entirely removed.

7. Tie plates:

a. Tie plates shall be placed under each rail at every tie. The tie plates shall be placed with the shoulder squarely against the rail.

b. No crooked tie plates shall be permitted. Each tie plate shall be of proper design to fit the rail section being used.

8. Rail:

a. All rail used in industrial track construction shall weigh a minimum of 90 pounds per yard. The majority of rails used shall be a minimum of 30 feet in length, with no more than 20 percent of varying lengths down to 24 feet, except as required in switches.

b. Rail shall be laid with joints staggered so that joints on one side will not be more than 4 feet from center of the opposite rail. The best running side of the relay railhead shall form the gage side of the rail as laid.

c. Rails shall be new or equal to No. 2 relay rail or No. 3 relay rail as per the AREA Manual recommendations for rail grading classifications. Overflow on one or both sides shall be less than ¼ of an inch. Base shall be solid and free of visual defects with only minor pitting. Relay rail shall be considered to be used material.

d. The bottom of rail, tie plate and top surface of tie shall be clean and smooth to provide for full bearing for rails and tie plates.

e. The use of a torch for cutting track rail, except for field welds or for burning bolt holes shall be prohibited. A rail saw or rail chisel properly and expertly used for cutting and a hand or power rail drill for boring holes shall be employed. All chips and burrs shall be removed and all drilled holes shall be peened. The bolt hole shall conform to the standard plans.

f. Angle bars of approved design shall be properly fitted against the rail and properly bolted. Each joint shall be bolted with at least two bolts through each rail end. Joint bars cracked or broken through between the middle two bolts shall be replaced. Compromise and insulated joint bars of proper design shall be used where rail size and conditions dictate. Track bolts, of proper size, fitted with approved spring washers, shall be fully tightened to proper tension.

9. Spiking:

a. Each rail will be spiked with two spikes per tie plate on tangent track, staggered with inside spikes to the east or north, outside spikes to the west or south.

b. Spikes shall be 5/8 of an inch wide by 6 inches long.

c. Track spikes shall be started and driven vertically with face shank in contact with the rail so that the face of the spike shall have full hold on rail base. Damage to tie timber fiber shall be minimized.

d. Spikes shall not be struck after head is down to snug contact with the railbase. Care shall be taken not to overdrive spikes and rail shall not be gouged or struck with spike maul or other tool.

e. In the construction of road crossings and turnouts, line spikes and hold down or anchor spikes shall also be used throughout the crossing and turnout closure

rails. Hold down or anchor spikes shall be used on curves of five degrees or more.

10. Gage:
    a. Gage is measured between the heads of the rails at right angles to the rails in a plane 5/8 of an inch below the top of the railhead.
    b. In new industrial construction the rails shall be gaged to 4 feet 8 ½ inches.
    c. Rail gage shall be maintained at not less than 4 feet 8 inches, nor more than 4 feet 9 ¾ inches for both curved and tangent track.
11. Rail anchors:
    a. 16 anchors per 39 feet of track shall be used, and four nonconsecutive ties shall be box-anchored per rail.
    b. Anchors shall be used throughout the turnout area. The same tie shall be box-anchored across.
    c. Anchors shall not be placed on joint ties or ties adjacent to joint ties.
    d. Additional anchors shall be applied where longitudinal rail movement needs to be effectively controlled.
12. Gage rods:
    a. Gage rods may be used on curves where it is difficult to maintain gage.
    b. On curves between 7 degrees and 10 degrees, 4 gage rods per 39-foot panel shall be installed and on curves between 10 degrees and 12 degrees, 5 gage rods per 39-foot panels shall be installed.
13. Switches:
    a. Each stock rail shall be securely seated in switch plates, but care shall be taken to avoid canting the rail by overtightening the rail braces.
    b. Each switch point shall fit its stock rail properly, with the switch stand in either of its closed positions to allow wheels to pass the switch point. Lateral and vertical movement of a stock rail in the switch plates or of a switch plate on a tie shall not adversely affect the fit of the switch point to the stock rail.
    c. Each switch shall be maintained so that the outer edge of the wheel tread cannot contact the gage side of the stock rail.
    d. The heel of each switch rail shall be secure and the bolts in each heel shall be kept tight.
    e. Each switch stand and connecting rod shall be securely fastened and operable without excessive lost motion.
    f. Unusually chipped or worn switch points shall be repaired or replaced. Metal flow shall be removed to insure proper closure.
    g. The railroad shall be responsible for the installation and maintenance of switches connecting industrial track to railroad track facilities.
    h. Owners of industrial switches shall be responsible for the installation and maintenance of their switches.
    i. "Run-through" or damaged switches shall be repaired immediately.
14. Derails:
    a. Derails shall be installed where grade or other conditions indicate the need.
    b. Derails shall be installed so that derailed cars will not foul or damage adjacent track or railroad structures.
    c. Derail signs shall be clearly visible.
    d. When in a locked position, the derail shall be free of lost motion which will allow it to be operated without removing the lock.
15. Car stops or bumping posts:
    a. Car stops or bumping posts shall be installed at the end of all industry spur tracks.
    b. Car stops or bumping posts may be of any design that will adequately stop a car without damaging the car, such as, "wheelstops", "drawbar stop", or "earth-tie stop".

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

R14-5-110. Walkway and Clearance Standards

A. The following shall be the standards for all walkways.
1. Walkways shall be provided adjacent to tracks in all areas where railroad or industrial employees are required to perform trackside duties.
2. Walkways shall be:
    a. A uniform regular surface with a gradual slope not to exceed 1 inch rise in 8 inches;
    b. Kept clean and free of weeds, debris and other materials or equipment that might tend to interfere with the footing of railroad or industrial employees performing trackside duties; and
    c. Constructed and maintained to insure proper drainage and prevent pooling of water, oil or other liquids.
3. In areas where heavy foot traffic exists, such as train yards and manually operated switches, the uniform surface material used shall be no larger than 3/8 inch fines.
4. Applicable walkway measurement and clearance standards contained in Appendices 1 through 6 shall be met.
5. The center of tracks shall be kept clean and free from all foreign materials that tend to build up between rails causing poor footing and a deterioration of track components.
6. Walkway standards shall not apply to any of the following:
    a. Tracks in streets or tunnels, existing bridges, grade separation structures, railroad-highway crossings, existing trestles, cattle guards, and tracks adjacent to walks, abutments, platforms, pillars and structures where minimum widths are otherwise provided;
    b. Tracks within cities, towns, populated or congested areas where there is insufficient width of right-of-way, except that standards shall apply to the full width of right-of-way available; and
    c. Tracks during periods of damage or obstruction due to heavy rain or snow, derailments, rock and earth slides and other abnormal periods. Walkways shall be brought back into compliance with this Section within 30 days after the damage or obstruction occurred.

B. The following shall be the clearance standards:
1. Minimum overhead and side clearances as prescribed in this Section may be decreased to the extent defined by the half circumference of a circle having a radius of 8 feet, 6 inches and tangent to a horizontal line 22 feet above the top of rail at a point directly above the centerline of track, except that for tunnels and through bridges, such radius may be 8 feet. The requirements contained in Appendix 7 also shall be met.
2. Minimum overhead clearance above the top of rail shall be 22 feet except as follows:
    a. Clearance may be reduced to 18 feet if the track terminates inside a building and all cars, locomotives,

or other equipment are brought to a stop before entering the building.

b. Clearance shall conform to the requirements specified in the National Electrical Safety Code (ANSI C2-1990) pertaining to the installation and maintenance of electrical supply and communication lines, published by the Institute of Electrical and Electronic Engineers, Incorporated (approved on June 26, 1989), incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from 345 East 47th Street, New York, N.Y., 10017.

c. Overhead clearances authorized in this subsection are applicable to tracks on which rail cars having a height of 15 feet 6 inches or less are transported. If rail cars of a height greater than 15 feet 6 inches are transported or proposed to be transported, minimum overhead clearance shall be increased by the amount of not less than such additional height, provided that such cars are exempt from this subparagraph when the top running boards have been removed, ladders and hand brakes lowered, car painted, stenciled, and otherwise modified in compliance with provisions of 49 CFR 231, as amended and revised through October 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

d. Rotary dumpers used in the unloading of open top cars shall be exempt from the provisions of this Section.

3. Minimum side clearance from centerline to tangent standard gage track to obstruction shall be 8 feet 6 inches except as follows:

a. For platforms:

i. Platforms 8 inches or less above the top of rail shall be 4 feet 8 inches from centerline of track.

ii. Platforms 4 feet or less above the top of rail shall be 7 feet 3 inches from centerline of track.

iii. Stepped platforms combining two or more of the platform clearances described in subdivisions (i) and (ii) of this subparagraph shall not be permitted.

iv. Existing platforms may be extended at existing clearance, provided that such clearance, unless otherwise permitted by this Section, shall not be less than 6 feet 6 inches from the centerline of track.

b. Mail cranes shall be exempt from the provisions of this Section.

c. All poles shall be a minimum of 8 feet 6 inches from the centerline of track, except that 10 feet shall be recommended where possible.

d. Minimum clearance for through bridges supporting track and tunnels shall be 8 feet from the centerline of track.

e. Minimum clearance for handrails on bridges with walkways shall be 7 feet 6 inches from the centerline of track, except that the railroad may require clearances in excess of this minimum when the railroad deems it necessary.

f. Water barrels and refuge platforms shall be 4 feet above the top of rail and 8 feet distant laterally from the centerline of track.

g. For block signals and switch stands:

i. Block signals and switch stands shall be 3 feet or less above the top of rail and located between tracks. Where not practicable to provide clearances otherwise prescribed in this Section, they shall be a minimum of 6 feet from the centerline of track.

ii. All other block signals and switch stands shall be a minimum of 8 feet 6 inches from the centerline of track.

h. Water columns and oil columns shall be a minimum of 8 feet from the centerline of track.

i. Cattle guard fencing shall be a minimum of 6 feet 9 inches from centerline of track; except that existing cattle guards less than 6 feet 9 inches from the centerline of track may be maintained at existing clearance if such clearance does not extend beyond a line extending diagonally upward from a point level with the top of rail and 5 feet 10 inches distant laterally from the centerline of track to a point 4 feet above top of rail and 8 feet distant laterally from the centerline of track.

j. Log rollways may be constructed and maintained with impaired clearances when adjacent to tracks operated exclusively for logging purposes.

k. Clearances into shops and buildings where freight cars are spotted for repairs shall be a minimum of 7 feet 8 inches from the centerline of track.

l. For fences and gates:

i. The minimum distance between a fence and the centerline of track shall be not less than 8 feet 6 inches, except that where conditions permit, 10 feet shall be required.

ii. Fences topped with barbed wire shall have vertical arms or the arms shall be turned outward away from track, if necessary to maintain minimum clearances as prescribed herein.

iii. Gates shall be secure and shall be maintained in a condition that will allow for easy opening by one person. Gates, in the open position, shall be at least 8 feet 6 inches from the centerline of track.

iv. Mechanical means shall be provided to prevent gates from swinging closed while switching operations are being performed.

m. All minimum side clearances prescribed herein are for tangent track. All structures adjacent to curved track shall have a minimum side clearance 1 foot greater than the equivalent minimum side clearance for tangent track. Where space is limited, the minimum side clearance for structures adjacent to track of not over 12 degrees curvature shall be the same as for tangent track, but if over 12 degrees curvature, ¼ of an inch shall be added to the equivalent minimum side clearance for tangent track for each degree of the curve. Where track contains superelevation, minimum side clearances shall be increased as necessary to give the equivalent clearances based on tangent track.

n. Minimum side clearances authorized in this subsection are applicable to tracks on which freight cars having a maximum overall width not greater than 10 feet 10 inches are transported. On tracks over which freight cars of greater width are transported, such minimum side clearance shall be increased by not less than ½ of such additional width.

4. The minimum distance between the centerlines of parallel standard gage railroad tracks, which are used or proposed to be used for transporting freight cars, shall be 14 feet, except as follows:
   a. The centerline of any standard gage track, except a main track, parallel and adjacent to a main track, shall be at least 15 feet from the centerline of main track.
   b. The centerline of any standard gage ladder track, constructed parallel to any other track, shall have a clearance of not less than 20 feet from the centerline of other track.
   c. Minimum clearance between the centerline of parallel house or industry tracks shall be 13 feet, except that railroads may require clearances in excess of this minimum when conditions so warrant.
   d. Minimum-clearance between centerlines of two parallel team tracks shall be 13 feet, except that railroads may require clearances in excess of this minimum.
   e. Minimum clearances prescribed herein are applicable only to tracks on which freight cars having a minimum overall width of 10 feet 10 inches are transported. On track over which freight cars of greater width are transported, minimum distance shall be increased by an amount equal to ½ such additional width.
   f. Existing tracks may be maintained, reconstructed, or extended at centers in existence as of the effective date of the Section.
5. For track occupying or adjacent to public roadways:
   a. Requirements for track occupying a public roadway shall be considered individually by the Commission.
   b. Track adjacent to a public roadway shall have a minimum clearance of 10 feet from the centerline of track to the face of curb or edge of roadway. Railroad maintenance roads shall be exempt from the provisions of this subparagraph.
6. For roadway structures over or under railroad track:
   a. Overhead roadway structures shall be a minimum of 23 feet above top of rail, except that overhead clearances greater than 23 feet may be approved when justified on the basis of railroad electrification.
   b. Roadway structures beneath railroad track shall have a minimum clearance of 15 feet above the surface of the roadway or, if additional clearance is required, as determined by the Commission after public hearing.
7. The general clearance requirements shall be:
   a. No merchandise, materials, equipment, or other articles shall be placed either on the ground or on a platform adjacent to any track at a distance less than 8 feet 6 inches from the centerline of track. A suitable line or other marker shall be maintained on all platforms at a distance of 8 feet 6 inches from the centerline of track to indicate minimum clearance for the articles.
   b. Nothing herein shall be considered as preventing the movement of special work equipment or cars, except that such operations shall be conducted in a safe manner.
8. For impaired clearance signs:
   a. Impaired clearance signs shall be of sufficient size to accommodate any wording prescribed by the Commission. The letters of said wording shall be at least 2 ½ inches in height with a ½ of an inch black stroke on a fluorescent white background. In the event the Commission does not specify said wording, railroads may use their own wording for such warning signs.
   b. Impaired clearance signs shall be located at no less than 8 feet 6 inches from the centerline of track, shall be in a position to be clearly visible to approaching train crews.

C. All railroads operating wholly or partially within the state of Arizona shall comply with the requirements of this Section in all construction, reconstruction, or modification of track or railroad facilities performed subsequent to the effective date of this Section.

D. Existing track, walkways, or railroad facilities may be maintained at existing clearances, except that such track, walkways, or railroad facilities shall not jeopardize the safety of railroad employees, industrial employees, or the general public.

E. Except as provided for in subparagraph (B)(4)(f) of this Section, all applications for exemption from any of the requirements of this Section shall be approved by the Commission prior to construction, reconstruction or modification of track or railroad facilities adjacent thereto. An application for exemption shall:
1. Be submitted to the Railroad Safety Section, Arizona Corporation Commission;
2. Contain the full name and address of the applicant and the nature of the applicant's business;
3. Set forth the reason and the extent for which relief is sought;
4. Include sufficient information to support and justify the exemption; and,
5. If necessary, include engineering drawings to further clarify the application.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

R14-5-111. Crew Requirements

A. Railroads operating within Arizona shall maintain a minimum of two operating employees in the control compartment of the lead locomotive unit of a train.

B. Compliance with subsection (A) of this Section shall not be required during switching operations, while moving cars for inspection purposes, or while performing setouts in conjunction with road service.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

R14-5-112. Reserved

R14-5-113. Hazardous Materials

A. All railroad operations which engage in the loading of railroad freight cars for the purpose of transporting hazardous materials by rail in and through Arizona shall be governed by all of the following:
1. The material to be transported shall be authorized for transportation in freight cars. The freight car selected shall be compatible with the lading and be authorized for the commodity by the United States Department of Transportation. All fittings, tank, and safety appurtenances shall be in proper condition for the safe transportation of the product.
2. Loading operations shall be performed only by persons properly instructed in loading hazardous materials and made responsible for careful compliance with 49 CFR 174.67, as amended and revised through November 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State and copies available from

the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

3. Hand brakes shall be set and wheels blocked on all cars to be loaded.
4. Caution signs shall be so placed on the track or cars to give necessary warning to persons approaching the cars from the open end of a siding and shall be left in place until after the cars are unloaded or loaded and disconnected from the loading or unloading connection. The signs shall be of metal or other comparable material, at least 12 inches high by 15 inches wide in size, and bear the words, "STOP--Freight Car Connected", or "STOP--Men at Work", the word "STOP" being in letters at least 4 inches high and other words in letters at least 2 inches high. The letters shall be white on a blue background.
5. Loading connections shall be securely attached to inlet pipes and other fittings before any discharge valves are opened.
6. Freight cars shall not be allowed to stand with connections attached after loading is completed. Throughout the entire period of loading, and while the car is connected to the loading device, the car shall be attended by the loader.
7. If necessary to discontinue loading a freight car for any reason, all loading connections shall be disconnected. All valves first shall be tightly closed, and the closures of all other openings securely applied.
8. As soon as a freight car is completely loaded, all valves shall be made tight, the loading connections shall be removed, and all other closures made tight, except that heater coil inlet and outlet pipes shall be left open for drainage. The manhole cover shall be re-applied by the use of a bar or wrench, the outlet valve reducer and outlet valve cap replaced by the use of a wrench having a handle at least 36 inches long, and the outlet valve cap plug, end plug, and all other closures of openings and of their protective housings shall be closed by the use of a suitable tool.
9. Railroad defect cards shall not be removed.
10. If oil or gasoline has been spilled on the ground around connections, it shall be covered with fresh dry sand or dirt.
11. All tools and implements used in connection with loading shall be kept free of oil, dirt, and grit.

B. Placarding shall be as follows:

1. When lading requiring placarding in compliance with provisions of 49 CFR 172.500(c), as amended and revised through November 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, is loaded in a freight car, it shall be the responsibility of the person loading the freight car to affix the prescribed number and type of placards to the freight car.
2. The freight car shall be equipped with at least four metal placard holders which are suitable for service.
3. Placards affixed to hazardous materials freight cars shall be in a condition so that the format, legibility, color, and visibility are not substantially reduced due to damage, deterioration, or obscurement by dirt or other matter.

C. The accumulation of static electricity during the loading or unloading of freight cars with flammable liquids or flammable compressed gases shall be prevented by providing a means of grounding the freight car body to a suitable location using a grounding device capable of conducting static electricity away from the freight car and the loading or unloading appliances and appurtenances.

D. For rail bonds and insulated joints:

1. Rail shall be adequately bonded at each joint upon which railroad equipment may stand while flammable liquids or flammable gases are being transferred.
2. Insulated rail joints shall be installed to electrically separate the loading or unloading track section from all other track rails.
   a. Insulated rail joints shall be applied only to rail having sawed ends.
   b. Insulated rail joints shall not be applied to rails covered with scale, dirt, or other foreign matter; to rails with battered ends; or when the opening between rail ends is greater than 3/8 of an inch.
3. An emergency transfer of flammable liquids or flammable gases that must be performed in conjunction with a hazardous material incident shall be exempt from Rail Bonding and Insulated Joint requirements, provided other means, such as ground rods, are utilized to ground the containers and transfer appliances.

E. A derail shall be used to prevent the intrusion into an area where freight cars are being loaded or unloaded with a hazardous material. This device shall be kept in "derailing" position and locked with an effective locking device while freight cars are connected for loading or unloading. The key for the lock used to immobilize the derailing device shall be maintained in the care of the person who is in charge of the freight cars being loaded or unloaded.

F. Placarded freight cars which contain hazardous materials shall not be left to stand in populated areas for the purpose of constructive placement where the freight car is not under the direct supervision, observation or control of the railroad carrier.

G. Rail carriers shall be prohibited from allowing freight or freight cars carrying hazardous materials to be constructively placed or otherwise withheld from their destination at other than an Environmental Protection Agency-approved transfer facility. For the purposes of this subsection, "transfer facility" shall mean any transportation-related facility including loading docks, parking areas and other similar areas where shipments of hazardous materials are held during the normal course of transportation.

H. All railroad operations which engage in the unloading of railroad freight cars for the purpose of transporting hazardous materials by rail in and through Arizona shall be governed by 49 CFR 174.67, as amended and revised through October 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, all being regulations of the Federal Railroad Administration, United States Department of Transportation, Railroad Safety regulations.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

R14-5-114. End-of-train Device

Any railroad carrier subject to the provisions of 49 CFR 221, amended and revised through October 1, 1989, incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975, operating trains outside of yard limits without an occupied caboose at the rear of the train shall have an operable end-of-train device capable of activating the train's emergency air brake system elec-

tronically from the control panel of the locomotive controlling the train.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

R14-5-115. Train Composition

All carriers operating within the state of Arizona shall strictly adhere to their respective instructions relative to "train makeup" or "special car handling instructions" as promulgated in the current timetable or other operating department special instructions.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

R14-5-116. Civil Penalty

A. Any person, firm or corporation violating any provision of this Article or Order adopted pursuant to this Article pertaining to railroad safety and the transportation of hazardous materials by rail shall be subject to a civil penalty not to exceed $2,000 for each violation with each day constituting a separate violation. In no event shall the maximum civil penalty exceed $200,000 for any related series of violations. The penalties described in this subsection shall not apply to R14-5-102.

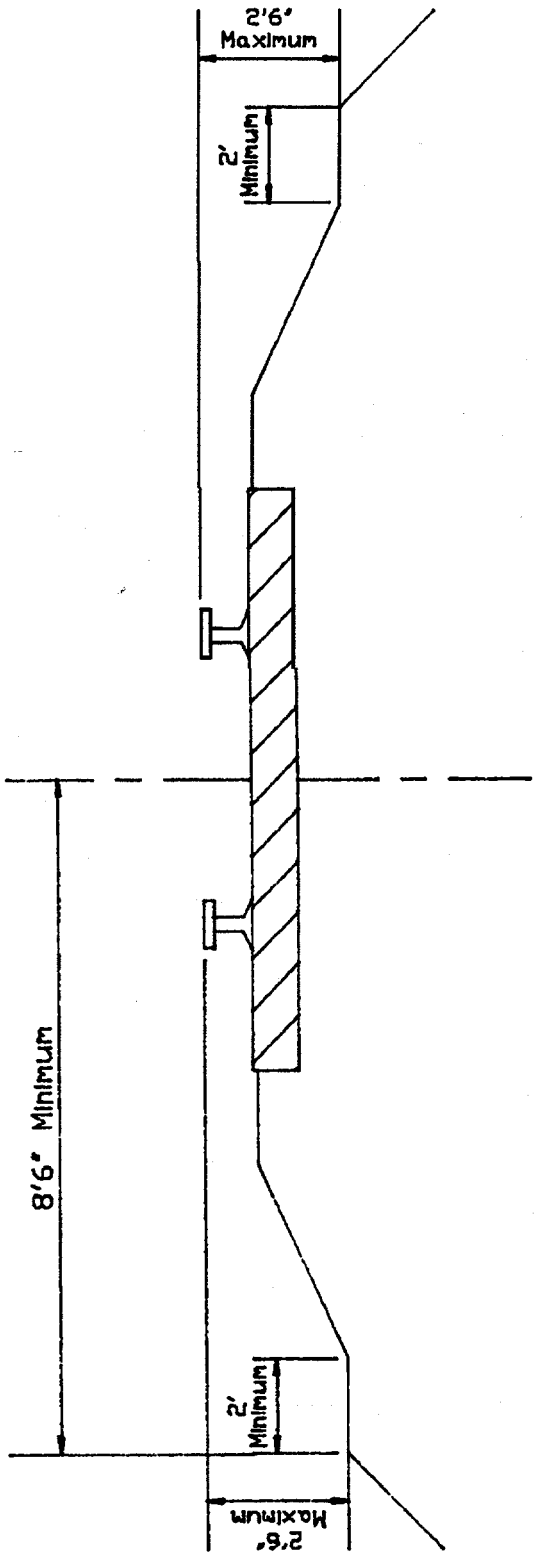
B. Any civil penalty pertaining to railroad and rail hazardous materials transportation safety may be compromised by the Commission. In determining the amount of the penalty, or the amount agreed upon in compromise, the appropriateness of the penalty to the size of the business of the person, firm or corporation charged, the gravity of the violation and the good faith of the person, firm or corporation charged in attempting to achieve compliance, after notification of a violation, shall be considered by the Commission. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the state of Arizona to the person, firm or corporation charged or may be recovered in a civil action in the Superior Court of the state of Arizona.

C. The Commission may avail itself of any other authority or remedies available under the Constitution of Arizona and the Arizona Revised Statutes to effect the purpose of this Article.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

Appendix 1. Walkways Along Main Tracks Along Short Line & Branch Line - One Track

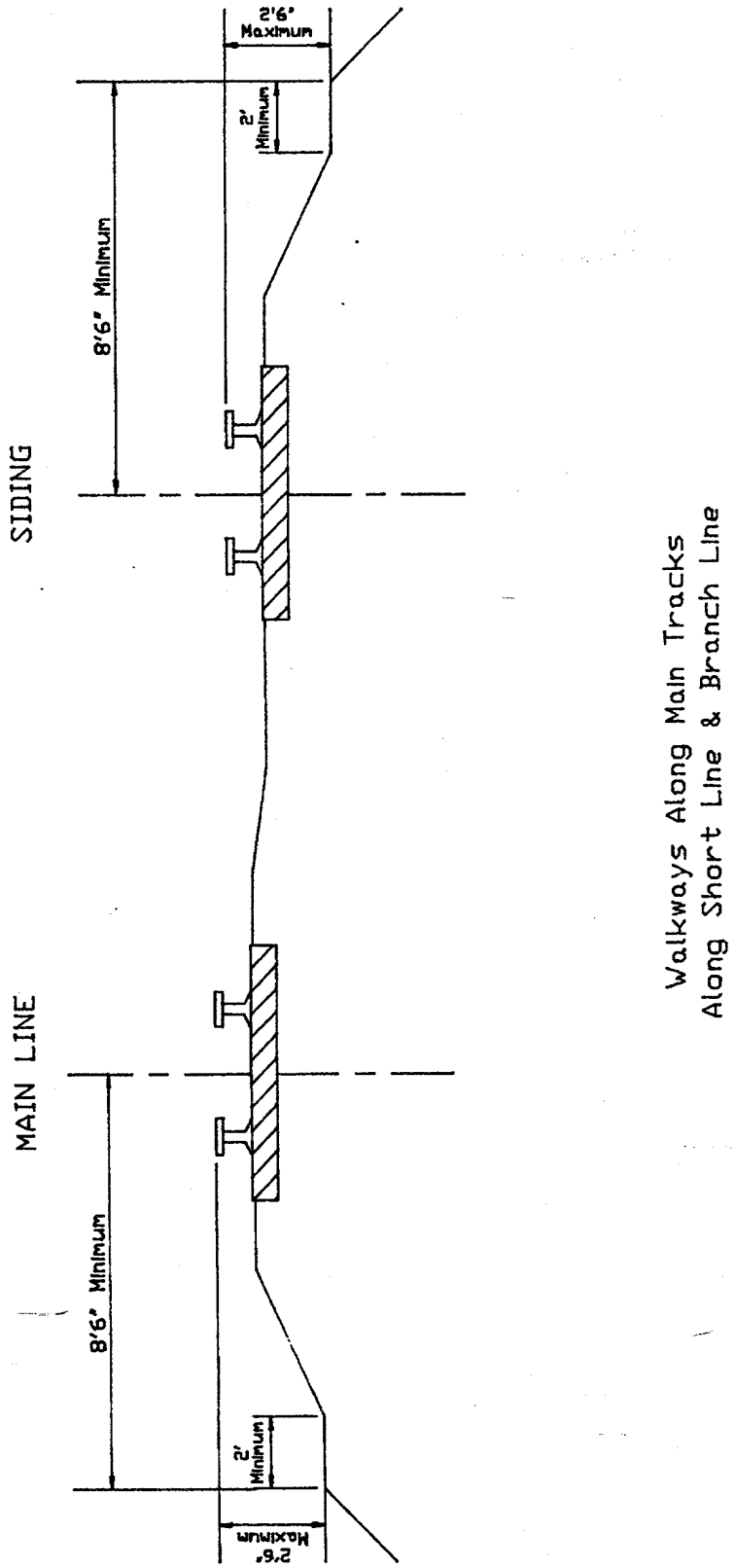


Walkways Along Main Tracks
Along Short Line & Branch Line

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

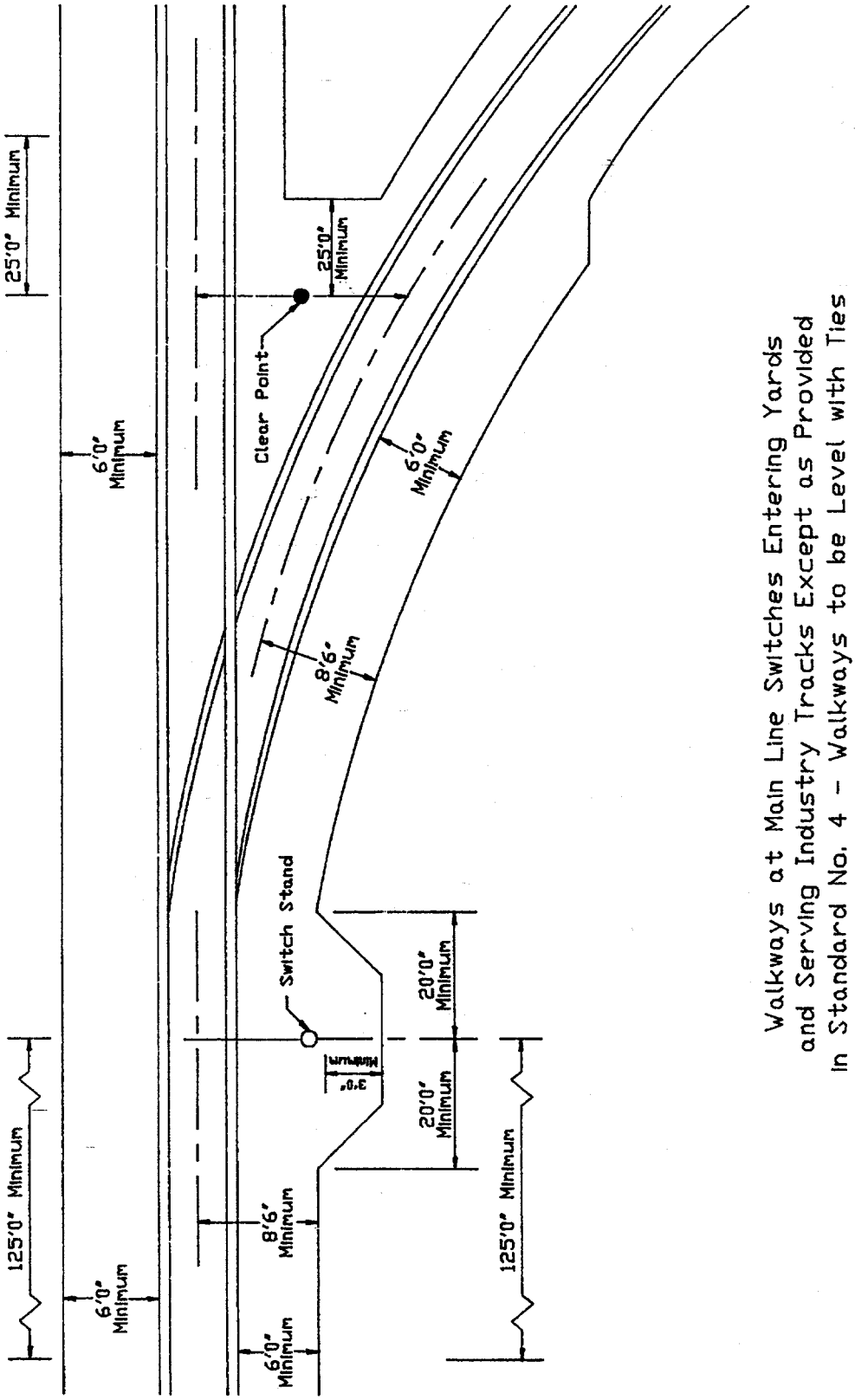
Appendix 2. Walkways Along Main Tracks Along Short Line & Branch Line - Two Tracks



Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

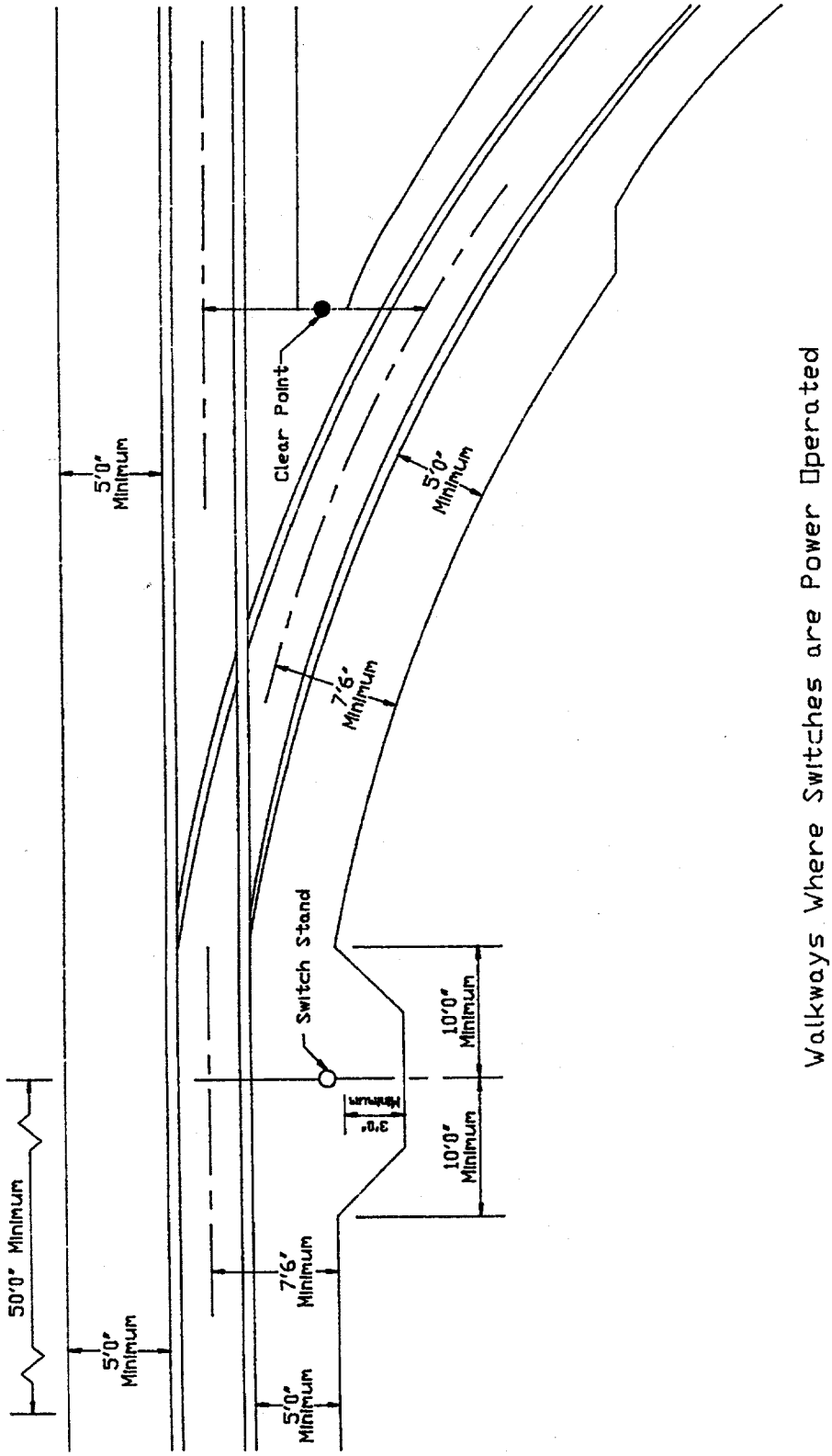
Appendix 3. Walkways at Main Line Switches Entering Yards and Serving Industry Tracks Except as Provided in Standard No. 4 - Walkways to be Level with Ties



Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

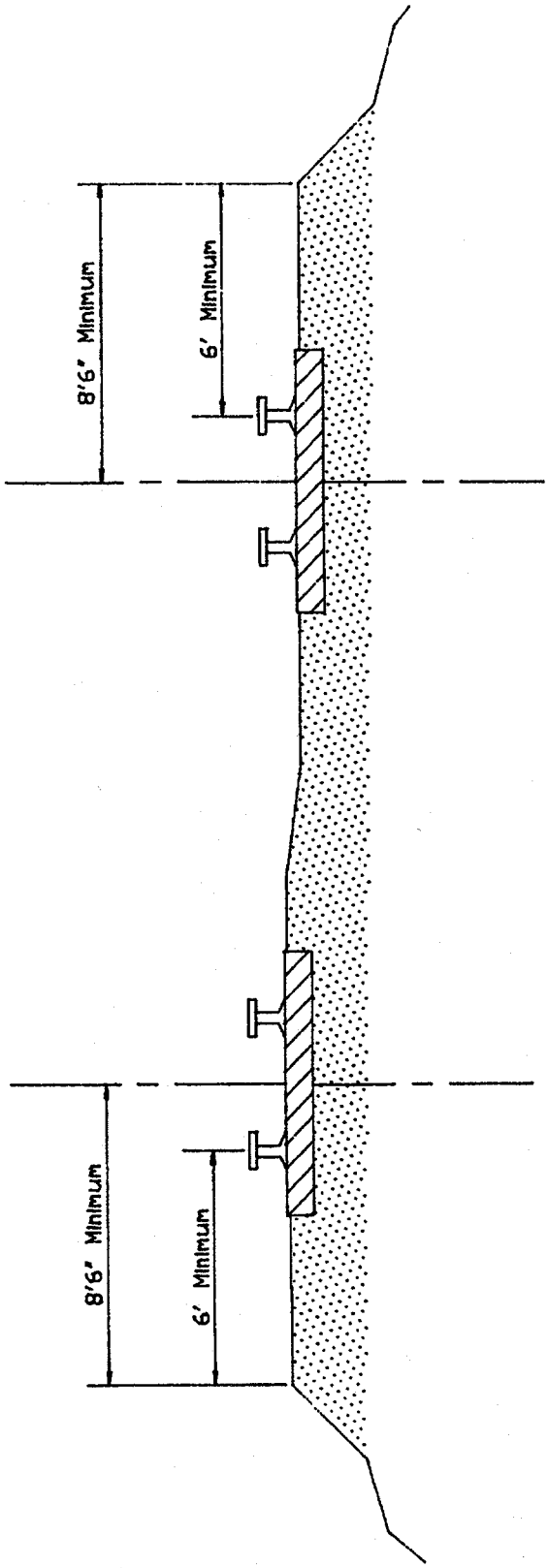
Appendix 4. Walkways Where Switches are Power Operated



Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

Appendix 5. Walkways in Yards and Points Where Industrial Switching is Performed But Not Less Than 50 Feet in Advance of Switch

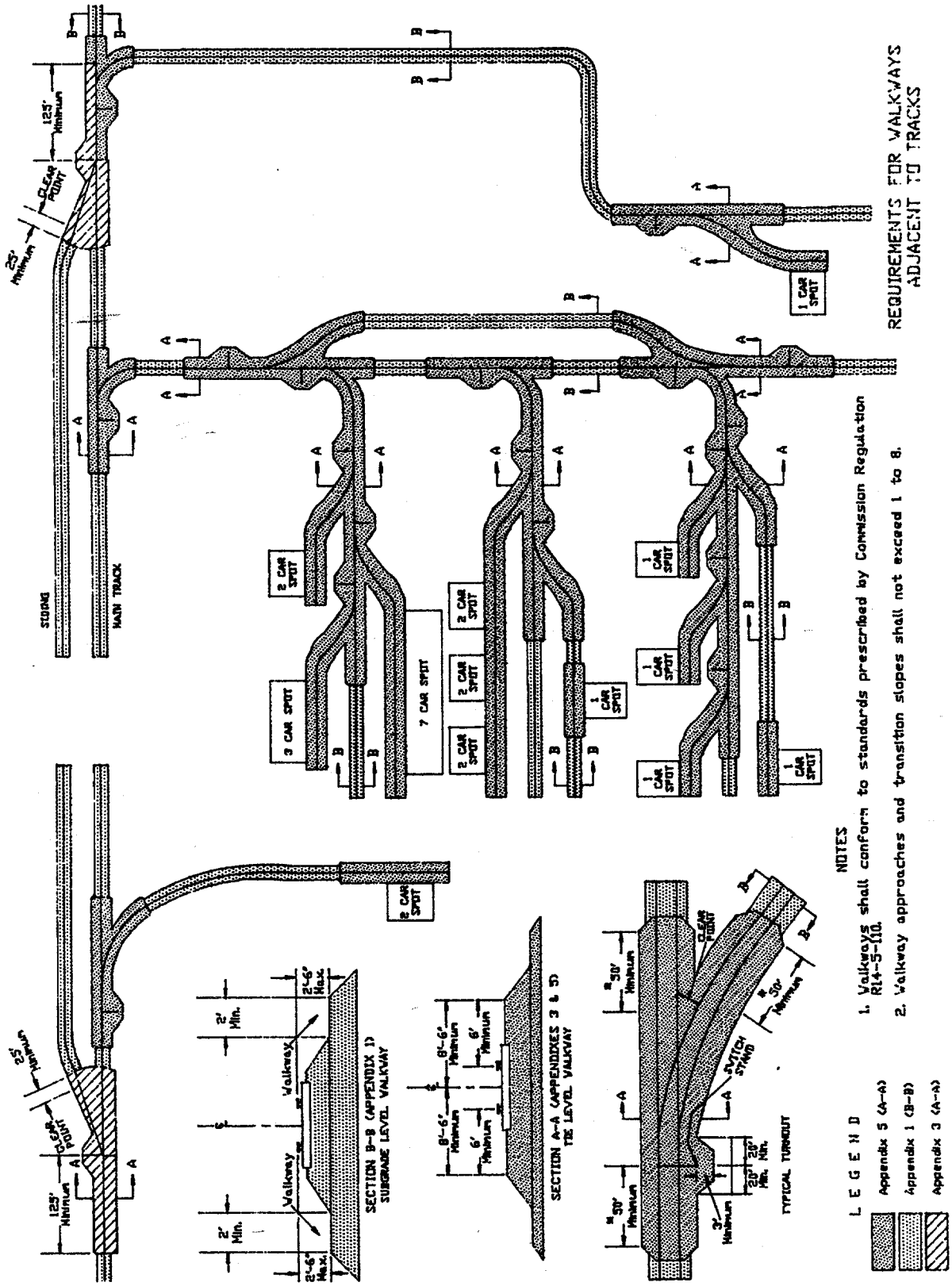


Walkways in Yards and Points Where Industrial Switching is Performed, But Not Less Than 50 Feet in Advance of Switch

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

Appendix 6. Requirements for Walkways Adjacent to Tracks



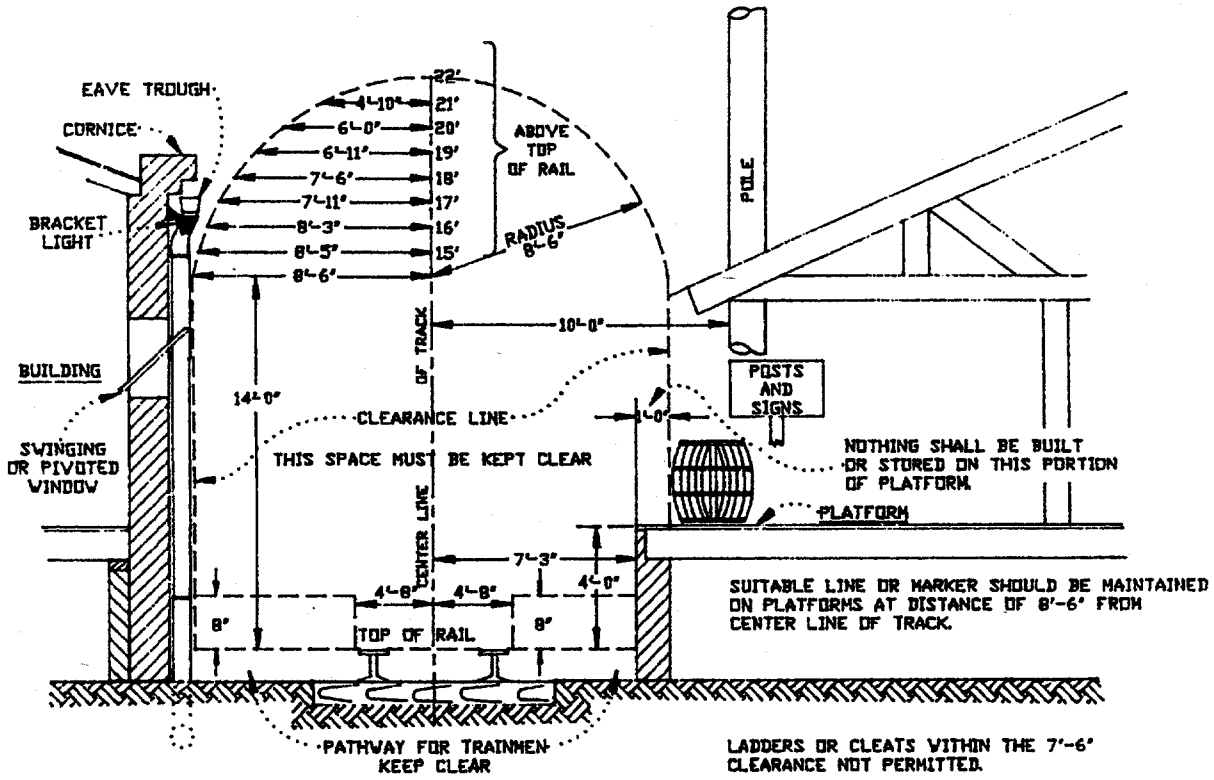
Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

Appendix 7. Typical Clearance of Structures from Railroad Tracks

TYPICAL CLEARANCE OF STRUCTURES FROM RAILROAD TRACKS AS PRESCRIBED BY ARIZONA CORPORATION COMMISSION ADMINISTRATIVE REGULATION R14-5-110

FOR NEW WORK AND RECONSTRUCTION OF EXISTING FACILITIES ADJACENT TO STANDARD GAUGE RAILROAD TRACKS TRANSPORTING FREIGHT CARS.



NOTES

OVERHEAD WIRE CLEARANCES SHALL CONFORM TO COMMISSION'S REGULATION R14-5-110.

POSTS, POLES, SIGNS AND SIMILAR FACILITIES MAY HAVE MINIMUM CLEARANCE OF 8'-6" BUT CLEARANCE OF 10'-0" IS RECOMMENDED WHERE PRACTICABLE.

ALL SIDE CLEARANCE DIMENSIONS ARE FOR TANGENT TRACK. IN GENERAL, SIDE CLEARANCE FOR CURVE TRACK TO BE 1'-0" GREATER THAN THAT FOR TANGENT TRACK.

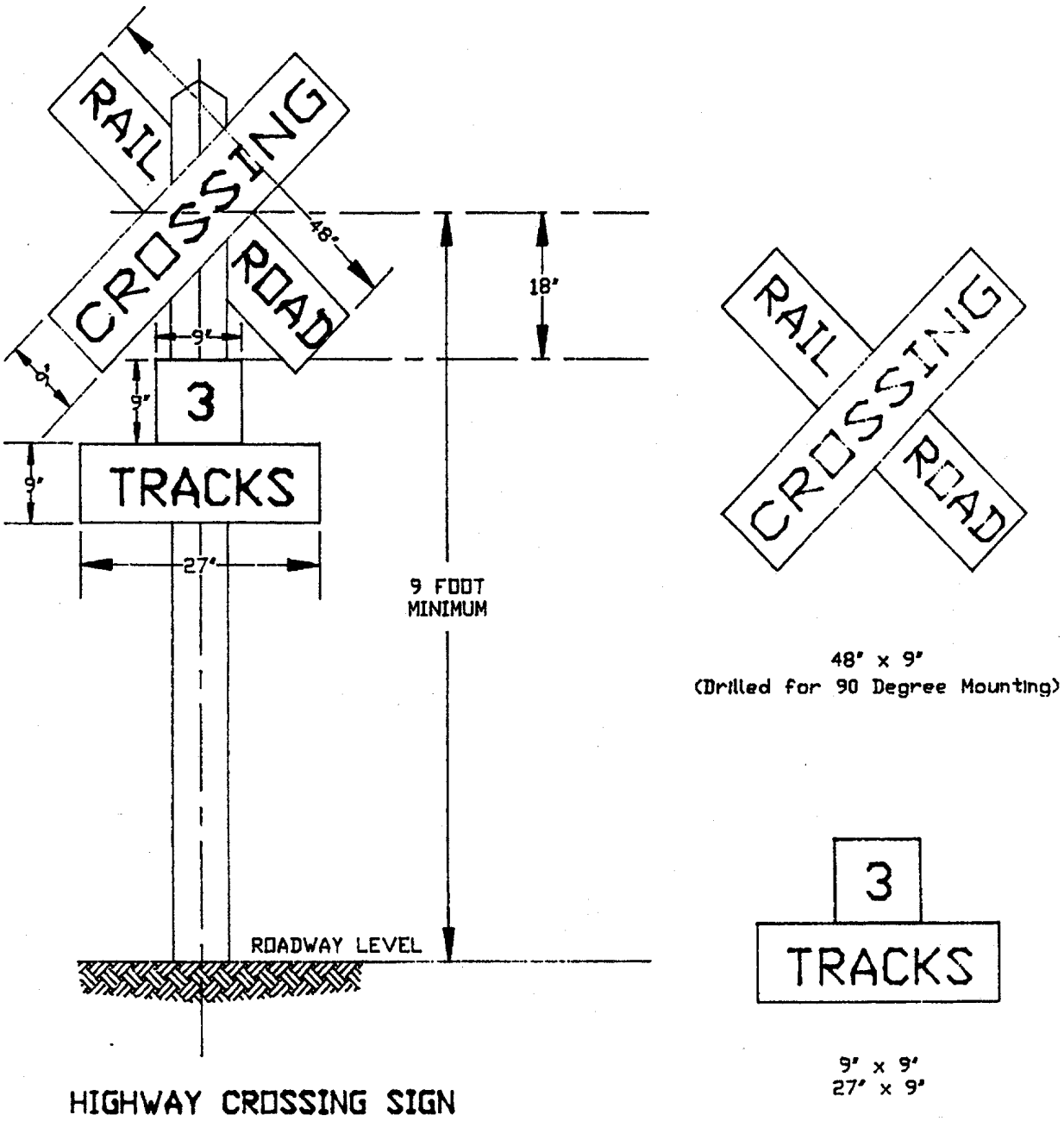
WHEN TRACK IS USED PRINCIPALLY FOR LOADING OR UNLOADING REFRIGERATOR CARS, PLATFORM HEIGHT OF 4'-6" ABOVE TOP OF RAIL MAY BE MAINTAINED PROVIDED THAT MINIMUM SIDE CLEARANCE TO CENTER LINE OF TRACK SHALL BE 8"-0".

PLATFORMS 4'-0" OR LESS IN HEIGHT WITH MINIMUM CLEARANCE OF 7'3" MAY BE EXTENDED AT EXISTING CLEARANCES IF SUCH EXTENSION IS NOT IN CONNECTION WITH RECONSTRUCTION OF ORIGINAL PLATFORM.

Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

Appendix 8. Highway Crossing Sign



Historical Note

Adopted effective May 28, 1992 (Supp. 92-2).

ARTICLE 2. PIPELINE SAFETY

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-5-201. Definitions

As used in this Article:

1. "Abandon" means disconnecting the pipeline from all sources and supplies of gas, purging the gas within the pipeline being disconnected and capping all ends.
2. "Building" means any structure intended for supporting or sheltering any occupancy.
3. "Commission" means the Arizona Corporation Commission.
4. "Intrastate pipeline" means all pipeline facilities included in the definition of "pipeline system" that are used by public service corporations to transport natural gas, other gas or hazardous liquids within Arizona, that are not used to transport gas or hazardous liquids in interstate or foreign commerce. This includes, without limitation, any equipment, facility, building or other property used or intended for use in transporting gas or hazardous liquids.
5. "Master meter system" means physical facilities for distributing gas within a definable area where the operator purchases metered gas from a public service corporation to provide gas service to two or more buildings other than at a single family residence.
6. "Operator" means a person that owns or operates a pipeline system or master meter system.
7. "Person" means any individual, firm, joint venture, partnership, corporation, association, cooperative association, joint stock association, trustee, receiver, assignee, personal representative, the state or any political subdivision thereof.
8. "Pipeline system" means all parts of those physical facilities that are used by public service corporations through which natural gas, other gases or hazardous liquids move in transportation including, but not limited to, pipes, compressor units, metering stations, regulator stations, delivery stations, holders and fabricated assemblies.
9. "Pipeline Safety Group" means the Section of Pipeline Safety personnel for the Commission.
10. "Sandy type soil" means sand no larger than "coarse" as defined by ASTM D-2487-83 (1983 Edition), incorporated herein by reference and on file with the Office of the Secretary of State.
11. "State" means the State of Arizona and all lands within its boundaries.
12. "Structure" means that which is built or constructed, an edifice or building of any kind or any piece of work artificially built or composed of parts joined together in some definite manner.
13. "Transport" or "transportation" of gas or hazardous liquids is the gathering, transmission, distribution and storage of gas or hazardous liquids by pipeline within the State.

Historical Note

Adopted effective October 23, 1987 (Supp. 87-4). Amended Paragraph (5) effective February 3, 1989 (Supp. 89-1). Amended effective July 25, 1994, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 94-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-5-202. Construction and Safety Standards

A. Applicability: This rule applies to the construction, reconstruction, repair, operation and maintenance of all intrastate natural gas, other gas and hazardous liquid pipeline systems.

B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 40, 191, 192, 193, 195, except 195.1(b)(2) and (3), and 199, revised as of February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

C. The above mentioned incorporated Parts of 49 CFR, except Parts 191 and 195, Subpart B, are revised as follows:

1. Substitute "Commission" where "Office of Pipeline Safety, Research and Special Programs Administration" or "Office of Pipeline Safety" (OPS) appear.
2. Substitute "Pipeline Safety Section, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Systems Manager, Materials Transportation Bureau, Department of Transportation or Office of Chief Counsel appear.

D. Operators of an intrastate pipeline will file with the Commission an Operation and Maintenance Plan (O & M), including an emergency plan, within 120 days of the effective date of this rule. Any changes in existing plans will be filed within 30 days of the effective date of the change.

E. Operators of an intrastate pipeline transporting sour gas or oil are subject to industry standards addressing facilities handling hydrogen sulfide (H_2S). Standards adopted are:

1. NACE standard MR-01-75 (1980 Revision); materials equipment-sulfide stress cracking resistant metallic material for oil field equipment, incorporated by reference and on file with the Office of the Secretary of State.
2. API RP55 (1981 Edition); API recommended practice for conducting oil and gas production operations involving hydrogen sulfide, incorporated by reference and on file with the Office of the Secretary of State.

F. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not construct any part of a natural gas system under a building. For building encroachments over natural gas system piping, the operator may require the property owner to resolve the encroachment (that is, moving the building or reimbursing the operator for relocating the gas piping). The operator will discontinue service to properties for which encroachment issues are not resolved.

G. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not construct any part of a main or service line of a natural gas system closer than 8 inches to any other underground structure. If the 8 inch clearance cannot be maintained from other underground structures, a sleeve, casing, or shielding may be used upon verification by the Pipeline Safety Section.

H. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system, that have regulators, meters, or regulation meter sets that have been out of service for 36 months will abandon those lines and cap all ends.

I. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will utilize a cathodic protection sys-

tem designed to protect metallic pipe, when used, in its entirety, in accordance with 49 CFR 192, Subpart I, February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975. Such a cathodic protection will be in operation within 1 year after completion of construction.

J. Operations of an intrastate pipeline transporting natural gas or other gas pipeline system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

K. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will not install Acrylonitrite-Butadiene-Styrene (ABS) pipe in their systems.

L. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct a pipeline or any portion thereof using plastic pipe, will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground.

M. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inch of sandy type soil for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Pipeline Safety Section.

N. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD as required by ASTM D2513-90c (1990c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.

O. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will grade all detected leakage by the following standard: ASME Guide for Gas Transmission and Distribution Pipeline System Material, Appendix G-11-1983 (1983 Revision), Leak Classification and Action Criteria, incorporated by reference and on file with the Office of the Secretary of State.

P. All repair work performed on existing intrastate pipeline transporting natural gas or other gas pipeline system will comply with the provisions of this Article.

Q. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public and pipeline safety.

R. To ensure compliance with provisions of this rule the Commission or an authorized representative thereof may enter the premises of an operator of an intrastate pipeline to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the pipeline system operation.

S. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

Historical Note

Adopted effective October 23, 1987 (Supp. 87-4). Amended Subsections (B), (I) and (J) effective February 3, 1989 (Supp. 89-1). Amended effective December 18, 1991 (Supp. 91-4). Amended effective July 25, 1994, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 94-3). Amended effective August 30, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3). Amended effective September 26, 1997, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-5-203. Pipeline Incident Reports and Investigations

A. Applicability. This rule applies to all intrastate pipeline systems.

B. Required incident reports by telephone:

1. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will notify by telephone the Pipeline Safety Section upon discovery of the occurrence of any of the following:
   a. The release of natural gas, other gas or liquefied natural gas (LNG) from a pipeline or LNG facility, when any of the following results:
      i. Death or personal injury requiring hospitalization.
      ii. An explosion or fire not intentionally set by the operator.
      iii. Property damage, including the value of the gas lost, estimated in excess of $5,000.
   b. Emergency transmission pipeline shutdown.
   c. News media inquiry.
2. Operators of an intrastate pipeline transporting hazardous liquid will notify by telephone the Pipeline Safety Section upon discovery of the occurrence of any of the following:
   a. Death or personal injury requiring hospitalization.
   b. An explosion or fire not intentionally set by the operator.
   c. Property damage estimated in excess of $5,000.
   d. Pollution of any stream, river, lake, reservoir, or other body of water that violates applicable water quality standards, causes a discoloration of the surface of the water or adjoining shoreline, or deposits sludge or emulsion beneath the surface of the water or upon adjoining shorelines.
   e. News media inquiry.
3. Telephone incident reports will include the following information:
   a. Name of the pipeline system operator,
   b. Name of the reporting party,
   c. Job title of the reporting party,
   d. The reporting party's telephone number,
   e. Location of the incident,
   f. Time of the incident, and
   g. Fatalities and injuries, if any.

C. Require written incident report:

1. Operators of an intrastate pipeline transporting natural gas or other gas pipeline system will file a written incident report when an incident occurs involving a natural gas or other gas pipeline that results in any of the following:
   a. An explosion or fire not intentionally set by the operator.

b. Injury to a person that results in 1 or more of the following:
   i. Death.
   ii. Loss of consciousness.
   iii. Need for medical treatment requiring hospitalization.
c. Property damage, including the value of the lost gas, estimated in excess of $5,000.
d. Emergency transmission pipeline shutdown.

2. Written incident reports concerning natural gas or other gas pipeline systems will be in the following form:
   a. RSPA F7100.1 - Distribution System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
   b. RSPA F7100.2 - Transmission and Gathering System: Incident Report, incorporated by reference and on file with the Office of the Secretary of State.
3. Operators of an intrastate pipeline transporting hazardous liquid will make a written incident report on DOT Form 7000-1, incorporated by reference and on file with the Office of the Secretary of State, when there is a release of hazardous liquid which results in any of the following:
   a. An explosion or fire not intentionally set by the operator.
   b. Injury to a person that results in 1 or more of the following:
      i. Death.
      ii. Loss of consciousness.
      iii. Inability to leave the scene of the incident unassisted.
      iv. Need for medical treatment.
      v. Disability which interferes with a person's normal daily activities beyond the date of the incident.
   c. The loss of 50 or more barrels of hazardous liquid.
   d. The escape of more than 5 barrels each day, of volatile liquids, into the atmosphere.
   e. Property damage estimated in excess of $5,000.
   f. News media inquiry.
4. Written incident reports as required in this Section will be filed, in duplicate, with the Pipeline Safety Section, within the time specified below:
   a. Natural gas or other gas - within 20 days after detection.
   b. Hazardous liquids - within 15 days after detection.
5. The Commission will forward a copy of all required written incident reports within 10 days of receipt to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

D. Investigations by the Commission:
1. The Pipeline Safety Section will investigate the cause of incidents resulting in death or serious injury.
2. Pursuant to an investigation under this rule, the Commission, or an authorized agent thereof, may:
   a. Inspect all plant and facilities of a pipeline system.
   b. Inspect all other property, books, papers, business methods, and affairs of a pipeline system.
   c. Make inquiries and interview persons having knowledge of facts surrounding an incident.
   d. Attend, as an observer, hearings and formal investigations concerning pipeline system operators.
   e. Schedule and conduct a public hearing into an incident.
3. The Commission may issue subpoenas to compel the production of records and the taking of testimony.
4. Incidents not reports in accordance with the provisions of this rule will be investigated by the Pipeline Safety Section.
5. Incidents referred to in incomplete or inaccurate reports will be investigated by the Pipeline Safety Section.
6. Late filed incident reports will be accompanied by a letter of explanation. Incidents referred to in late filed reports may be investigated by the Pipeline Safety Section.
7. Operators of an intrastate pipeline transporting natural gas and other gas pipeline system will grade and report all detected leakage by the following standard -- ASME Guide for Gas Transmission and Distribution Pipeline Systems Material, Appendix G-11-1983 (1983 Revision), Leak Classification and Action Criteria, incorporated by reference and on file with the Office of the Secretary of State.

Historical Note

Adopted effective October 23, 1987 (Supp. 87-4).
Amended effective December 18, 1991 (Supp. 91-4).
Amended effective September 26, 1997, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

R14-5-204. Annual Reports

A. Except for operators of an intrastate pipeline transporting hazardous liquid, all other intrastate pipeline operators will file in duplicate, with the Pipeline Safety Section, not later than March 1, for the preceding calendar year, the following appropriate report(s):
1. RSPA F7100.1-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 19___, Gas Distribution System" and "Instructions for Completing RSPA Form F7100.1-1, Annual Report for Calendar Year 19___, Gas Distribution System", incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.
2. RSPA F7100.2-1 (November 1985 Edition and no future editions) - "Annual Report for Calendar Year 19___, Gas Transmission and Gathering Systems" and "Instructions for Completing Form RSPA F7100.2-1, Annual Report for Calendar Year 19___, Gas Transmission and Gathering Systems", incorporated herein by reference, on file with the Office of the Secretary of State, and copies available from the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Room 8417, 400 Seventh Street, S.W., Washington, D.C. 20590.

B. The Commission will forward a copy of all required annual reports by March 15 to the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590.

Historical Note

Adopted effective October 23, 1987 (Supp. 87-4).
Amended effective December 18, 1991 (Supp. 91-4).

Editor's Note: The Arizona Corporation Commission has determined that the following Section is exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1041) by a court order (State of Arizona v. Arizona Corporation Commission, 114 Ariz. Adv. Rep. 36 (Ct. App. 1992)).

R14-5-205. Master Meter System Operators

A. Applicability. This rule applies to the construction, reconstruction, repair, emergency procedures, operation and maintenance of all master meter systems as a condition of receiving service from public service corporations. Noncompliance with this rule by operators of a master meter system shall constitute grounds for termination of service by the public service corporation when informed in writing by the Pipeline Safety Section. In case of an emergency, the Pipeline Safety Section may give the public service corporation oral instructions to terminate service, with written confirmation to be furnished within 24 hours.

B. Subject to the definitional changes in R14-5-201 and the revisions noted in subsection (C), the Commission adopts, incorporates, and approves as its own 49 CFR 191 and 192, revised as of February 25, 1997 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

C. The above mentioned incorporated parts of 49 CFR, except Part 191, are revised as follows:

1. Substitute "Commission" where "Office of Pipeline Safety, Research and Special Programs Administration", or "Office of Pipeline Safety" (OPS) appear.
2. Substitute "Pipeline Safety Section, Arizona Corporation Commission, at its office in Phoenix, Arizona" where addresses for the Information Resources Manager, Office of Pipeline Safety, Research and Special Programs Administration, U.S. Department of Transportation or Office of Chief Counsel appear.

D. Operators of a master meter will establish an Operation and Maintenance Plan (O & M) including an emergency plan. The plans must be maintained at the master meter location.

E. Operators of a master meter system will not construct any part of a natural gas or other gas system under a building or permit a building to be placed over a pipeline.

F. Operators of a master meter system will not install Acrylonitrile-Butadiene-Styrene (ABS) pipe in their systems.

G. Operators of a master meter system will not use solvent cement to join together plastic pipe manufactured from different materials unless the operator utilizes a joining procedure in accordance with the specifications of 49 CFR 192, Subpart F, August 14, 1995 (and no future amendments), incorporated by reference, on file with the Office of the Secretary of State, and copies available from the United States Government Printing Office, P.O. Box 371975M, Pittsburgh, Pennsylvania 15250-7975.

H. Operators of a master meter system that construct a pipeline or any portion thereof using plastic pipe will install, at a minimum, a 14-gauge coated or corrosion resistant, electrically conductive wire as a means of locating the pipe while it is underground.

I. Operators of a master meter system that construct an underground pipeline using plastic pipe, will bury the installed pipe with a minimum of 6 inches of sandy type soil for bedding and shading, free of any rock or debris, unless otherwise protected and approved by the Pipeline Safety Section.

J. Operators of a master meter system that construct an underground pipeline using plastic pipe will install the pipe with sufficient slack to allow for thermal expansion and contraction. In addition, all plastic pipe shall be marked CD as required by ASTM D2513-90c (1990c Edition and no future editions), incorporated by reference, on file with the Office of the Secretary of State and copies available from ASTM, 1916 Race Street, Philadelphia, Pennsylvania 19103-1187, for areas where the service temperature is above 100°F.

K. All repair work performed on existing master meter systems will comply with the provisions of this Article.

L. Operators of a master meter system will not construct any part of a natural gas or other gas system closer than 8 inches to any other underground structure.

M. Operators of a master meter system will file a Notice of Construction 30 days prior to commencement of the construction of any pipeline. The Notice will contain the following information:

1. The dates of construction,
2. The size and type of pipe to be used,
3. The location of construction, and
4. The Maximum Allowable Operating Pressure (MAOP).

N. Operators of a master meter system will perform leakage surveys at intervals not exceeding 15 months but at least once each calendar year and will grade all detected leakage by the following standard -- ASME Guide for Gas Transmission and Distribution Pipeline System Material, Appendix G-11-1983 (1983 Revision and no future amendments), Leak Classification and Action Criteria, incorporated by reference, on file with the Office of the Secretary of State, and copies available from ASME, United Engineering Center, 345 East 47th Street, New York, New York 10017. Leak detection procedures shall be approved by the Pipeline Safety Section.

O. Operators of a master meter system will file an annual report with the Commission on Commission Form 1-90/15M (1990 Edition and no future editions), "Annual Report for Calendar Year 19___, Small Operators of Gas Distribution System," incorporated by reference, on file with the Office of the Secretary of State, and copies available from the Arizona Corporation Commission, Pipeline Safety Group, 1200 West Washington, Phoenix, Arizona 85007. This report will be filed with the Pipeline Safety Section not later than April 15 for the preceding calendar year.

P. The Commission may waive compliance with any of the aforementioned parts upon a finding that such a waiver is in the interest of public safety.

Q. To ensure compliance with provisions of this rule, the Commission or an authorized representative thereof, may enter the premises of an operator of a master meter system to inspect and investigate the property, books, papers, business methods, and affairs that pertain to the operation of the master meter system.

R. All other Commission administrative rules are superseded to the extent they are in conflict with the pipeline safety provisions of this Article.

Historical Note

Adopted effective October 23, 1987 (Supp. 87-4). Amended subsections (B) and (G) effective February 3, 1989 (Supp. 89-1). Amended effective December 18, 1991 (Supp. 91-4). Amended effective July 25, 1994, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 94-3). Amended effective August 30, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).Amended effective September 26, 1997, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 97-3).

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

CHAPTER 6. CORPORATION COMMISSION INVESTMENT MANAGEMENT

Editor's Note: The Corporation Commission has determined that rules in this Chapter are exempt from the Attorney General certification provisions of the Arizona Administrative Procedure Act (A.R.S. § 41-1044) by a court order (State ex rel. Corbin v. Arizona Corporation Commission, 174 Ariz. 216, 848 p.2d 301 (App. 1992)); This exemption means that the rule was not approved by the Attorney General. Because this Chapter was filed under a rulemaking exemption, as determined by the Corporation Commission, other than a statutory exemption, the Chapter is printed on green paper.

(Authority: Article XV, §§ 4,6, and 13, Constitution of Arizona, and A.R.S. § 44-3131.)

ARTICLE 1. GENERAL PROVISIONS RELATING TO THE ARIZONA INVESTMENT MANAGEMENT ACT

Article 1, consisting of Sections R14-6-101 thru R14-6-104, adopted effective July 19, 1996 (Supp. 96-3).

Section
R14-6-101. Definitions
R14-6-102. Scope
R14-6-103. Severability
R14-6-104. Enforcement of the Arizona Investment Management Act
R14-6-105. Processing of Applications for Investment Adviser and Investment Adviser Representative Licensure

ARTICLE 2. DUTIES OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

Article 2, consisting of Sections R14-6-201 thru R14-6-209, adopted effective July 19, 1996 (Supp. 96-3).

Section
R14-6-201. Books and Records of Investment Advisors
R14-6-202. Supervision
R14-6-203. Dishonest and Unethical Practices
R14-6-204. Written Examination
R14-6-205. Information to be Furnished to Clients ("Brochure Rule")
R14-6-206. Custody of Client Funds or Securities by Investment Advisors
R14-6-207. Suitability of Investment Advisory Services
R14-6-208. Advertisements by Investment Advisors or Investment Advisor Representatives
R14-6-209. Financial and Disciplinary Information that Investment Advisors Must Disclose to Clients

ARTICLE 1. GENERAL PROVISIONS RELATING TO THE ARIZONA INVESTMENT MANAGEMENT ACT

R14-6-101. Definitions

A. The definitions set forth in A.R.S. §§ 44-1801 and 44-3101 shall apply to the rules promulgated under A.R.S. Title 44, Chapter 13.

B. The following definitions shall apply to all rules promulgated under A.R.S. Title 44, Chapter 13, unless the context otherwise requires:

1. "IM Act" means the Arizona Investment Management Act, A.R.S. § 44-3101 *et seq.*
2. "Advertisement" means, except as set forth in subsections (d) and (e), any notice, circular, letter, or other written, oral, or electronically-generated communication addressed to or reasonably designed by the investment adviser or investment adviser representative to be accessed by more than 1 person, or any notice or other announcement in any publication or by radio or television, which directly or indirectly offers:
   a. Any analysis, report, or publication concerning securities, or which is to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or
   b. Any graph, chart, formula, or other device to be used in making any determination as to when to buy or sell any security, or which security to buy or sell; or
   c. Any other investment advisory service with regard to securities; or
   d. A communication over a computer on-line service including, but not limited to, an electronic bulletin board shall not be deemed to be an advertisement when an investment adviser or an investment adviser representative is either:
      i. Engaged in a discussion regarding securities and does not receive compensation from any person for the discussion; or
      ii. Responds to unsolicited inquiries regarding the provision of investment advisory services.
   e. A communication by 1 or more investment advisers or investment adviser representatives shall not be deemed to be an advertisement when the communication is addressed solely to or is reasonably designed to be accessed solely by other investment advisers or investment adviser representatives.
3. "Certified public accountant" or "CPA" means an accountant who has been registered or licensed to practice public accounting and is permitted to use the title "certified public accountant" and use the initials "CPA" after the accountant's name.
4. "Chapter 13" means A.R.S. Title 44, Chapter 13.
5. "Commodity Exchange Act" means 7 U.S.C. 1 *et seq.* (1988 & Supp. V 1993), which is incorporated by reference, does not contain any later amendments or editions, and is on file in the Office of the Secretary of State. Copies of the Commodity Exchange Act are available from the Securities Division of the Corporation Commission and from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
6. "Division" means the Securities Division of the Corporation Commission.
7. "Fixed fee basis" means an investment advisory fee which at any given time can be precisely established in dollar amount without regard to the investment performance or value of an account and which is not based on the purchase or sale of specific securities.
8. "Form ADV" means the Uniform Application for Investment Adviser Registration, 17 CFR 279.1 (1994) (Form amended at 59 FR 21657 (1994) and 59 FR 27659 (1994)), which is incorporated by reference, does not contain any later amendments or editions, and is on file in the Office of the Secretary of State. Copies of Form ADV are available from the Division and from the Superinten-

dent of Documents, Government Printing Office, Washington, D.C. 20402.

9. "Impersonal advisory services" means investment advisory services provided solely:
   a. By means of written material or oral statements that do not purport to meet the objectives or needs of specific individuals or accounts;
   b. Through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or
   c. Any combination of the foregoing services.
10. "NASAA" means the North American Securities Administrators Association, Inc. or any successor organization.
11. "NASD" means the National Association of Securities Dealers, Inc. or any successor organization.
12. "Relative" means any relationship by blood, marriage, or adoption, not more remote than 1st cousin.
13. "Rule 204-2" means United States Securities and Exchange Commission Rule 204-2, 17 CFR 275.204.2 (1994), which is incorporated by reference, does not contain any later amendments or editions, and is on file in the Office of the Secretary of State. Copies of Rule 204-2 are available from the Division and from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
14. "Rule 204-3" means United States Securities and Exchange Commission Rule 204-3, 59 FR 21661 (1994) (to be codified at 17 CFR 275.204.3), which is incorporated by reference, does not contain any later amendments or editions, and is on file in the Office of the Secretary of State. Copies of Rule 204-3 are available from the Division and from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.
15. "SEC" means United States Securities and Exchange Commission.
16. "Securities Act" means the Securities Act of Arizona, A.R.S. § 44-1801 *et seq*.
17. "Unincorporated organization" includes a limited liability company for purposes of the definition of "person," as defined in A.R.S. § 44-1801(13).

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3). Chapter 13 reference updated to reflect current style (Supp. 98-3).

R14-6-102. Scope

The following rules are adopted by the Commission under the authority granted pursuant to A.R.S. Title 44, Chapter 13. All rules shall be generally applicable to the administration of the IM Act but the Commission may at any time abrogate or waive strict adherence to any particular rule in any specific instance where the Commission may deem it advisable for the equitable administration of the law. When not in conflict with these rules, the applicable provisions of A.A.C. R14-3-101 through R14-3-113 also shall apply.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3). Section heading and Chapter 13 reference updated to reflect current style (Supp. 98-3).

R14-6-103. Severability

The provisions of the rules promulgated under A.R.S. Title 44, Chapter 13, are severable. If any provision of a rule is held to be invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provision.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3). Chapter 13 reference updated to reflect current style (Supp. 98-3).

R14-6-104. Enforcement of the Arizona Investment Management Act

The rules relating to investigations and examinations conducted pursuant to and orders issued under the IM Act are contained at A.A.C. R14-4-301 through R14-4-308.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-105. Processing of Applications for Investment Adviser and Investment Adviser Representative Licensure

A. For purposes of this Section, the term "application" includes all documents, information and fees prescribed by the Commission under A.R.S. Title 44, Chapter 13, Articles 4 and 5 and the rules promulgated under those statutes.

B. Within 21 days after receipt of an application for investment adviser or investment adviser representative licensure, the Commission shall notify the applicant, in writing, that the application is either complete or deficient. If the application is deficient, the notice shall specify all deficiencies. Unless otherwise notified by the Commission, an application will be deemed complete 21 days after receipt by the Commission of information in satisfaction of all deficiencies.

C. An applicant with a deficient application shall supply the information in satisfaction of the deficiencies within the time permitted by A.R.S. § 44-3181. If the applicant fails to provide the information, the Commission may abandon the application under A.R.S. § 44-3181. An applicant whose application has been abandoned may reapply by submitting a new application.

D. Within 60 days after receipt of a complete application, the Commission shall approve the application or initiate the denial process by filing a notice of an opportunity for a hearing under R14-4-306. When a notice of an opportunity for a hearing is filed:
   1. If the applicant does not request a hearing, the Commission shall approve, deny or take other appropriate action regarding the application within 70 days after service of the notice.
   2. If the applicant requests a hearing, the applicant shall do so within 10 days after receipt of the notice. The Commission shall approve, deny or take other appropriate action regarding the application within 210 days after the applicant's request is docketed with the Commission.

E. For purposes of A.R.S. § 41-1073, the Commission has established the following time-frames:
   1. When the Commission approves an application under subsection (D):
      a. Administrative completeness review time-frame: 42 days;
      b. Substantive review time-frame: 60 days;
      c. Overall time-frame: 102 days.
   2. When the Commission initiates the denial process and no hearing is requested under subsection (D)(1):
      a. Administrative completeness review time-frame: 42 days;
      b. Substantive review time-frame: 130 days;
      c. Overall time-frame: 172 days.

3. When the Commission initiates the denial process and a hearing is requested under subsection (D)(2):
   a. Administrative completeness review time-frame: 42 days;
   b. Substantive review time-frame: 280 days;
   c. Overall time-frame: 322 days.

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

G. When the period of time prescribed in this Section is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall not be included in the computation. When the period of time prescribed for a specific time-frame is 11 days or more, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation.

H. The Commission shall renew a license under this Section upon receipt by the Commission of the license fee, as required by A.R.S. § 44-3181.

Historical Note

Adopted effective September 17, 1998 (Supp. 98-3). Chapter 13 reference updated to reflect current style (Supp. 98-3).

ARTICLE 2. DUTIES OF INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

R14-6-201. Books and Records of Investment Advisers

A. Each investment adviser shall make, maintain, and preserve books and records in compliance with Rule 204-2. The investment adviser shall concurrently file with the Commission a copy of any notices or written undertakings required to be filed with the SEC under Rule 204-2.

B. To the extent that the SEC amends Rule 204-2, investment advisers in compliance with Rule 204-2 as amended shall not be deemed to be in violation of this Section and shall not be subject to enforcement action by the Commission for violation of this Section to the extent that the violation results solely from the investment adviser's compliance with the amended Rule 204-2.

C. As of the effective date of this Section, each investment adviser shall make, maintain, and preserve for at least 5 years the following additional books and records:
1. A file containing each customer complaint received relating to advisory activities conducted by the investment adviser, its investment advisory representatives, or its employees, and all correspondence relating to such complaint;
2. A file containing all advertisements used by the investment adviser or any investment adviser representative, including any radio or television transcripts and advertisements placed on computer or electronic bulletin boards;
3. In each client file, all correspondence received or sent by the investment adviser, any investment adviser representative, or any employee, that relates to any client account, securities, or funds.

D. Books and records that are required to be maintained pursuant to subsection (A) shall be available for inspection by the Commission in accordance with the provisions of Rule 204-2. Books and records that are required to be maintained pursuant to subsection (C) shall be readily accessible and may be preserved in accordance with Rule 204-2(g).

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-202. Supervision

For purposes of A.R.S. § 44-3201(A)(12), no investment adviser shall be deemed to have failed to reasonably supervise its investment adviser representatives or employees if:
1. There have been established and maintained written procedures, and a system for applying such procedures, which would reasonably be expected to prevent and detect, insofar as practicable, any violation by such investment adviser representatives or employees of the IM Act, or any rule adopted thereunder; and
2. Such investment adviser has reasonably discharged the duties and obligations incumbent upon it by reason of such procedures and system without reasonable cause to believe that such procedures and system were not being complied with.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-203. Dishonest and Unethical Practices

"Dishonest and unethical practices", with respect to investment advisers and investment adviser representatives under A.R.S. § 44-3201(A)(13) shall include, but not be limited to, the following:
1. Refusing to allow or otherwise impeding designees of the Commission from conducting an investigation or examination under the IM Act or any rule adopted thereunder;
2. Placing an order to purchase or sell a security for the account of a client without authority to do so;
3. Placing an order to purchase or sell a security for the account of a client upon instruction of a 3rd party without first obtaining a written 3rd-party trading authorization from the client;
4. Exercising any discretionary power in placing an order for the purchase or sale of securities for a client without first obtaining written discretionary authority, unless the discretionary power relates solely to the price at which, or the time when, an order involving a definite amount of specified securities shall be executed, or both;
5. Inducing trading in a client's account that is excessive in size or frequency in view of the financial resources, investment objectives, and character of the account;
6. Borrowing money or securities from a client or client's account unless the client is a dealer, an affiliate, or relative of the investment adviser or investment adviser representative, or a financial institution or other entity engaged in the business of loaning funds or securities;
7. Loaning money to a client unless the investment adviser or investment adviser representative is a financial institution or other entity engaged in the business of loaning funds or the client is an affiliate or relative of the investment adviser or investment adviser representative;
8. Misrepresenting to any client, or prospective client, the qualifications of the investment adviser, the investment adviser representative, or an employee, or misrepresenting the nature of the investment advisory services being offered or fees to be charged for such services, or omitting to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they were made, not misleading;

9. Providing a report or recommendation to any client prepared by someone other than the investment adviser or investment adviser representative without disclosing that fact. This prohibition does not apply to a situation where the investment adviser or investment adviser representative uses published research reports or statistical analyses to render investment advice or where the investment adviser or investment adviser representative orders such a report in the ordinary course of providing service;
10. Charging a client an investment advisory fee that is unreasonable in light of the type of services to be provided, the experience and expertise of the investment adviser or the investment adviser representative, the sophistication and bargaining power of the client, and whether the investment adviser has disclosed that lower fees for comparable services may be available from other sources;
11. Failing to disclose to a client in writing before entering into or renewing an investment advisory agreement with that client, or before any investment advice is rendered, any material conflict of interest relating to the investment adviser, the investment adviser representative, or an employee which could reasonably be expected to impair the rendering of unbiased and objective advice including, but not limited to:
    a. Compensation arrangements connected with investment advisory services to clients which are in addition to compensation from such clients for those services; and
    b. Charging a client an investment advisory fee for rendering investment advice without disclosing that compensation for executing securities transactions pursuant to such investment advice will be received by the investment adviser, the investment adviser representative, or an employee;
12. Promising or guaranteeing a client that a gain, loss, or other outcome will be achieved as a result of the investment advice;
13. Disclosing the identity, affairs, or investments of a client to any 3rd party unless required by law to do so, or unless consented to by the client;
14. With respect to any client initially retained after the effective date of this rule, entering into, extending, modifying, or renewing any investment advisory contract except a contract for impersonal advisory services unless such contract is in writing and discloses all the material terms of the contract including but not limited to the services to be provided, the investment advisory fee or the formula for computing the fee, the amount or the manner of calculation of the amount of the prepaid fee to be returned in the event of contract termination or non-performance, and of any grant of discretionary power to the investment adviser;
15. With respect to any client initially retained after the effective date of this rule, entering into, extending, modifying, or renewing any investment advisory contract without disclosing, in writing to the client, any affirmative answers to disciplinary questions numbered 11A and 11K in Part I of the Form ADV;
16. Entering into, extending, modifying, or renewing any investment advisory contract which allows the assignment of such contract by the investment adviser without the prior written consent of the client;
17. Committing any act that results in denial, revocation, or suspension of a license or registration relating to securities by an agency of any state, where such denial, revocation or suspension arises out of any scheme, act, practice or course of business that operates or would operate as a fraud or deceit, or arises out of a violation of Article 13 of the Securities Act or the rules promulgated thereunder; and
18. For any investment adviser to, in any manner, request, or require, in any contract, agreement, or otherwise, any condition, stipulation, or provision binding on any person to waive compliance with any provision of the IM Act or the rules thereunder. Any such waiver shall be void.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-204. Written Examination

A. Prior to licensure, except as provided in subsection (B), each investment adviser who is an individual and each investment adviser representative, each of whom is hereafter referred to as an "applicant," must take and receive a score of at least 70% on:
1. The NASAA Series 65 Uniform Investment Adviser State Law Examination or Series 66 Combined State Law Examination; and
2. The NASD Series 7 General Securities Registered Representative Examination or Series 2 General Securities Representative (Non-member) Examination.

B. The examinations described in subsection (A)(2) shall not be required of an applicant who has completed and maintains 1 of the following credentials:
1. Certified Financial Planner (CFP) designation awarded by the Certified Financial Planner Board of Standards, Inc.;
2. Chartered Financial Analyst (CFA) designation awarded by the Institute of Chartered Financial Analysts;
3. Chartered Financial Consultant (ChFC) designation awarded by the American College, Bryn Mawr, Pennsylvania;
4. Chartered Investment Counselor (CIC) designation awarded by the Investment Counsel Association of America, Inc.; or
5. Personal Financial Specialist (PFS) designation awarded by the American Institute of Certified Public Accountants.

C. In the event that the NASAA or NASD Series examination numbers change, the most current examination series deemed applicable by the Commission to the category of licensure shall apply.

D. In the event that the title changes for any of the credentials designated in subsection (B), the title deemed applicable by the Commission shall apply.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-205. Information to be Furnished to Clients ("Brochure Rule")

A. Each investment adviser shall comply with the provisions of Rule 204-3.

B. To the extent that the SEC amends Rule 204-3, investment advisers in compliance with Rule 204-3 as amended shall not be deemed to be in violation of this Section and shall not be subject to enforcement action by the Commission for violation of this Section to the extent that the violation results solely

from the investment adviser's compliance with the amended Rule 204-3.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-206. Custody of Client Funds or Securities by Investment Advisers

It shall constitute a fraudulent practice within the meaning of A.R.S. § 44-3241(A)(4) for any investment adviser to take or have custody of any securities or funds of any client unless:

1. The investment adviser notifies the Commission in writing that the investment adviser has or may have custody of client funds or securities. Such notification may be given on Form ADV;
2. The securities of each client are segregated, marked to identify the particular client having the beneficial interest therein, and held in safekeeping in some place reasonably free from risk of destruction or other loss;
3. All client funds are deposited in 1 or more bank or similar accounts containing only clients' funds, such accounts are maintained in the name of the investment adviser as agent or trustee for such clients, and the investment adviser maintains a separate record for each such account showing the name and address of the bank or similar institution where the account is maintained, the dates and amounts of deposits into and withdrawals from the account, and the exact amount of each client's beneficial interest in the account;
4. Immediately after accepting custody or possession of funds or securities from any client, the investment adviser notifies the client in writing of the place where and the manner in which the funds and securities will be maintained and, subsequently, if and when there is a change in the place where or the manner in which the funds or securities are maintained, the investment adviser gives prompt (but in no event more than 10 business days) written notice thereof to the client;
5. At least once every 3 months, the investment adviser sends each client an itemized statement showing the client's funds and securities in the investment adviser's custody at the end of such period and all debits, credits, and transactions in the client's account during such period; and
6. At least once every calendar year, an independent CPA or public accountant verifies all client funds and securities by actual examination at a time chosen by the independent CPA or public accountant without prior notice to the investment adviser. The independent CPA's or public accountant's report stating that such CPA or public accountant has made an examination of such funds and securities, and describing the nature and extent of the examination, shall be filed with the Commission promptly (but in no event more than 30 days) after each such examination.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-207. Suitability of Investment Advisory Services

It shall constitute a fraudulent practice within the meaning of A.R.S. § 44-3241(A)(4) for any person providing investment advisory services to provide investment advisory services to any client, other than in connection with impersonal advisory services, unless the person:

1. Before providing any investment advisory services, and as appropriate thereafter, makes a reasonable inquiry of the client as to the financial situation, investment experience, and investment objectives of the client; and
2. Reasonably determines that the investment advisory services are suitable for the client based upon the information obtained from the client in accordance with subsection (1) above.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-208. Advertisements by Investment Advisers or Investment Adviser Representatives

A. It shall constitute a fraudulent practice within the meaning of A.R.S. § 44-3241(A)(4) for any investment adviser or investment adviser representative, directly or indirectly, to use any advertisement:

1. Which refers, directly or indirectly, to any testimonial of any kind concerning the investment adviser or investment adviser representative or concerning any advice, analysis, report, or other service rendered by such investment adviser; or
2. Which refers, directly or indirectly, to past specific recommendations of such investment adviser or investment adviser representative which were or would have been profitable to any person; provided, however, that this shall not prohibit an advertisement which sets out or offers to furnish a list of all recommendations made by such investment adviser or investment adviser representative within the immediately preceding period of not less than 1 year if such advertisement, and such list if it is furnished separately:
   a. States the name of each such security recommended, the date and nature of each such recommendation (for example, whether to buy, sell, or hold), the market price at that time, the price at which the recommendation was to be acted upon, and the market price of each such security as of the most recent practicable date; and
   b. Contains the following cautionary legend on the 1st page thereof in print or type as large as the largest print or type used in the body or text thereof: "It should not be assumed that recommendations made in the future will be profitable or will equal the performance of the securities in this list;" or
3. Which represents, directly or indirectly, that any graph, chart, formula, or other device being offered can in and of itself be used to determine which securities to buy or sell, or when to buy or sell them; or which represents, directly or indirectly, that any graph, chart, formula, or other device being offered will assist any person in making his or her own decisions as to which securities to buy or sell, or when to buy or sell them, without prominently disclosing in such advertisement the limitations thereof and the difficulties with respect to its use; or
4. Which contains any statement to the effect that any report, analysis, or other service will be furnished free or without charge, unless such report, analysis or other service actually is or will be furnished entirely free and without any condition or obligation, directly or indirectly; or
5. Which states that the Commission has approved any advertisement.

B. When requested by the Commission, any advertisement used directly or indirectly in connection with the provision of investment advisory services shall be filed with the Commission at least 10 business days prior to its proposed use.

C. Any advertisement that has been requested by the Commission pursuant to the provisions of subsection (B) but that has not been filed with the Commission shall not be used.

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).

R14-6-209. Financial and Disciplinary Information that Investment Advisers Must Disclose to Clients

A. The following definitions shall apply to this Section:

1. "Investment-related" means pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment adviser, government securities broker or dealer, municipal securities dealer, bank, savings and loan association, entity, or person required to be registered under the Commodity Exchange Act, or fiduciary).
2. "Involved" means acting or aiding, abetting, causing, counseling, commanding, inducing, conspiring with, or failing reasonably to supervise another in doing an act.
3. "Management person" means a person with power to exercise, directly or indirectly, a controlling influence over the management or policies of an investment adviser which is a company or to determine the general investment advice given to clients.
4. "Self-regulatory Organization" or "SRO" means any national securities or commodities exchange, registered association, or registered clearing agency.

B. It shall constitute a fraudulent practice within the meaning of A.R.S. § 44-3241(A)(4) for any investment adviser to fail to disclose to any client or prospective client all material facts with respect to:

1. A financial condition of the investment adviser that is reasonably likely to impair the ability of the investment adviser to meet contractual commitments to clients, if the investment adviser has discretionary authority (express or implied) or custody over such client's funds or securities, or requires prepayment of advisory fees of more than $500 from such client, 6 months or more in advance; or
2. A legal or disciplinary event that is material to an evaluation of the investment adviser's integrity or ability to meet contractual commitments to clients.

C. It shall constitute a rebuttable presumption that the following legal or disciplinary events involving the investment adviser or a management person of the investment adviser (any of the foregoing being referred to hereafter as a "person") that were not resolved in the person's favor or subsequently reversed, suspended, or vacated are material within the meaning of subsection (B)(2) for a period of 10 years from the time of the event. No affirmative or negative presumption of materiality shall be created under subsection (B)(2) for events not specifically set forth in this subsection.

1. A criminal or civil action in a court of competent jurisdiction in which the person:
   a. Was convicted, pleaded guilty or nolo contendere ("no contest") to a felony or misdemeanor, or is the named subject of a pending criminal proceeding (any of the foregoing referred to hereafter as "action"), and such action involved: an investment-related business; fraud, false statements, or omissions; wrongful taking of property; or bribery, forgery, counterfeiting, or extortion;
   b. Was found to have been involved in a violation of an investment-related statute or rule; or
   c. Was the subject of any order, judgment, or decree permanently or temporarily enjoining the person from, or otherwise limiting the person from, engaging in any investment-related activity.
2. Administrative proceeding before the Securities and Exchange Commission, the Commission, or any federal regulatory agency or any state agency (any of the foregoing being referred to hereafter as "agency") in which the person:
   a. Was found to have caused an investment-related business to lose its authorization to do business; or
   b. Was found to have been involved in a violation of an investment-related statute or rule, and was the subject of an order by the agency denying, suspending, or revoking the authorization of the person to act in, or barring or suspending the person's association with, an investment-related business; or otherwise significantly limiting the person's investment-related activities.
3. Self-regulatory Organization ("SRO") proceedings in which the person:
   a. Was found to have caused an investment-related business to lose its authorization to do business; or
   b. Was found to have been involved in a violation of the SRO's rules and was the subject of an order by the SRO barring or suspending the person from membership or from association with other members, or expelling the person from membership; fining the person more than $2,500; or otherwise significantly limiting the person's investment-related activities.

D. The information required to be disclosed by subsection (B) shall be disclosed to clients promptly but in no event later than 30 days after the occurrence of the event requiring disclosure, and to prospective clients not less that 48 hours prior to entering into any written or oral investment advisory contract, or no later than the time of entering into such contract if the client has the right to terminate the contract without penalty within 5 business days after entering into the contract.

E. For purposes of calculating the 10-year period during which events are presumed to be material under subsection (C), the date of the reportable event shall be the date on which the final order, judgment, or decree was entered, or the date on which any rights of appeal from preliminary orders, judgments, or decrees lapsed.

F. Compliance with subsection (C) shall not relieve any investment adviser from the disclosure obligations of subsection (B); compliance with subsection (B) shall not relieve any investment adviser from any other disclosure requirement under the Act, the rules thereunder, or under any other state or federal law. Note: Investment advisers may disclose this information to clients and prospective clients in their "brochure," the written disclosure statement to clients under R14-6-205, provided, that the delivery of the brochure satisfies the timing of disclosure requirements described in subsection (D).

Historical Note

Adopted effective July 19, 1996, under a court-ordered exemption as determined by the Arizona Corporation Commission (Supp. 96-3).