

**TO: ELECTRIC COMPETITION ADVISORY GROUP**

**FROM: KEVIN C. HIGGINS, ENERGY STRATEGIES**  
**on behalf of ARIZONANS FOR ELECTRIC CHOICE AND**  
**COMPETITION (AECC)**

**SUBJECT: COMMENTS ON OTHER PARTIES' RESPONSES TO**  
**QUESTIONS DATED MARCH 19, 2003**

**DATE: NOVEMBER 20, 2003**

On April 11, 2003, Arizonans for Electric Choice and Competition (AECC) submitted responses to the questions posed by Staff regarding the Electric Competition Rules. Having reviewed the responses of other parties, we offer the following general comments on those other parties' responses. These comments are not intended to respond to each and every issue raised by other parties, but are intended to provide a response to some of the more contentious issues raised.

**Issue: Arizona Independent Scheduling Administrator (AISA)**

AEPCO and REDCs filed comments proposing the elimination of the provisions in the Electric Competition Rules requiring the AISA. AECC notes that since the filing of these comments, the issue of the AISA has been addressed in Docket No. E00000A-01-0630. In that proceeding, AECC filed testimony that addressed the importance of retaining the AISA, and will not repeat those arguments here. We will limit our comments to restating our conviction that, in the absence of an RTO, the AISA is essential if retail direct access is ever to move forward in Arizona. We note that AEPCO's opposition to the AISA is consistent with its opposition to retail direct access service generally.

**Issue: Eliminating direct access service for smaller customers**

TEP, in direct contravention of its own settlement agreement, has proposed eliminating direct access service for customers below 3 MW in size. This proposal is merely the resurrection of TEP's pre-settlement position on this subject. AECC strongly opposes this attempt to arbitrarily restrict smaller customers from shopping. Smaller customers in Arizona have the right to shop now, and are suffering no ill effects from having that right. TEP's proposal is a "solution" to a non-existent problem. In other jurisdictions, such as Michigan, in which the underlying economics of direct access service are more

advantageous for shopping than in Arizona at the current time, small commercial customers are shopping in significant numbers. AECC notes that TEP makes its proposal from behind the protections afforded its shareholders by the assurance of stranded cost recovery, a part of its settlement agreement that TEP apparently intends to retain. AECC suggests that TEP, rather than reneging on its settlement agreement by proposing to eliminate shopping rights for the vast majority of its customers, should instead renounce its claim to stranded cost recovery for smaller customers. Such an action would remove this artificial barrier that impedes the ability of these customers to shop, and would provide a more honest test of whether customers under 3 MW might benefit from direct access service than has occurred in TEP's territory heretofore.

**Issue: Providing unbundled billing elements**

TEP complains that R-14-2-1612(O), which requires that customer bills show unbundled billing elements, is "burdensome and confusing to customers." AECC submits that it is preferable for customers to be informed concerning the components of their costs, and opposes repeal of R-14-2-1612(O). TEP's proposal is a step backward.

**Issue: Universal service fund**

Trico proposes establishing a universal service fund to serve as a source of revenues in the event that the utility loses substantial sales to direct access service. AECC submits that this issue is addressed as part of stranded cost recovery. A universal service fund is unnecessary, as it would duplicate the role of the revenue provided by stranded cost charges.

**Issue: Rescinding the right to retail access until further notice**

Trico proposes eliminating the language in 1604(D) which grants all customers the right to procure competitive services effective January 1, 2001, and proposes replacing it with language that would withhold such rights until a finding is made with respect to wholesale markets. AECC strongly opposes this proposal, which, in one swoop, would undo the difficult work of establishing direct access rights in Arizona. Customers and ESPs are already capable of figuring out for themselves whether they can put together deals that save money relative to standard offer rates. They don't need to have their right to transact rescinded pending a government pronouncement on the efficacy of wholesale markets. This proposal is simply a ruse to quash the right to shop. Moreover, Trico's assertion that Decision No. 65154 has in effect stayed the Electric Competition Rules is misleading. Trico apparently overlooks the finding in that order that states: "The continued availability of retail direct access is *not* an issue in this proceeding and there is insufficient evidence in the record to make a determination on this issue." [Emphasis added]

**Issue: Filing of unbundled tariffs**

Trico proposes eliminating R-14-2-1606(D), which requires the filing of unbundled tariffs that are non-discriminatory to direct access customers. Trico states that such a

provision is somehow unfair. AECC strongly opposes Trico's proposal. Non-discriminatory tariffs are a cornerstone of any direct access program. Trico also proposes deleting language that requires unbundled tariffs to reflect cost-of-service. [R-14-2-1606(H)(2)]. Trico's proposal would result in the provision of monopoly services at prices that are not cost-based, and is not in the public interest.

**Issue: Basis for determining stranded cost**

Trico advocates deleting 1607(E), which articulates the basis of stranded cost determination, and proposes replacing it with a Just Compensation standard. Trico does not believe that stranded costs can be determined by the Commission. AECC disagrees.

**Issue: UDC obligation to ensure adequate transmission**

Trico objects to the requirement in 1609(B) to ensure adequate transmission because Trico owns no transmission. Rather than deleting the requirement, as Trico proposes, the language could be amended to accommodate Trico's situation.

**Issue: Market rates deemed "just and reasonable"**

Trico proposes deleting 1611(A), which states that market-determined rates for competitive services shall be deemed to be just and reasonable. AECC objects to the proposed deletion. Instead ECAG should address the ramifications of Arizona court findings on this issue and consider any qualifications to the phrasing that may be helpful to carrying out the intent of the Rules.

**Issue: Provision of competitive services by Affected Utilities and UDCs**

Trico proposes changes to 1615(A) and 1615(B) to allow Affected Utilities to provide Competitive Services. With the exception noted below, AECC disagrees. AECC notes that Affected Utilities and UDCs effectively "compete" with ESPs through their standard offer rates. However, AECC *does* agree that UDCs should be able to provide Meter Services and Metering Reading Services to direct access customers, a point we made in our initial comments.

**Issue: Miscellaneous Trico proposed changes**

AECC opposes Trico's proposed wording changes to 1611(B), 1611(E), and 1611(F). These proposed changes are generally unhelpful to the implementation of the Rules.