

Notices of Supplemental Proposed Rulemaking

5. An explanation of the rule, including the agency's reason for initiating the rule:

For purposes of clarity and ease of understanding, the Authority wishes to amend the Sections noted above to clarify and replace outdated language. No substantive changes are intended. Also, the Authority wishes to delete language rendered unnecessary by statutory amendments. Due to a change in certain of its governing statutes, the Authority must repeal the Sections noted above.

The Authority wishes to retain the provisions of R12-14-607, but change its designation to R12-14-601.

6. An explanation of the substantial change which resulted in this supplemental notice:

As a result of informal reviews of the rules as previously published (and as a result of the Authority's internal review), it was determined that the rules as earlier proposed, required further clarification and substantial changes to bring the language into conformity with the accepted rulemaking format and drafting style. Also, three additional Sections (R12-14-301, R12-14-402 and R12-14-404) were found to be in need of revision for reasons of clarification. The rules as currently proposed are not intended to make any substantive changes to the rules as originally published.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

In 1997, the Legislature repealed A.R.S. § 30-171 through § 30-173 which, among other things, directed the Authority to adopt rules pertaining to administrative hearings. As a result of the repeal, the responsibility for conducting hearings is now vested in the Office of Administrative Hearings (OAH). The Authority's earlier rules covering this subject must therefore be repealed.

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

Costs associated with revising the Authority's existing rules will be borne by the Authority and its customers, which include electrical and irrigation districts, certain municipalities and the Central Arizona Water Conservation District (CAP).

Repeal of the Authority's rules of practice and procedure will require the use of the Office of Administrative Hearings (OAH) which will bear the cost (or share the cost) with the Authority. The public will be indirectly, but minimally impacted, by such increased costs.

Whatever costs or benefits result from the simplification and clarification of the rules will be shared by the Authority's customers as well as the businesses and members of the public who are served by the customers. While there is no way to quantify these costs and benefits, any increase will be moderate.

Except as noted above, there are no direct, probable costs or benefits to political subdivisions, to businesses, or small businesses. There is no impact on public or private employment. The rules will have no impact on state revenue.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: James P. Bartlett, Legal Counsel
Address: 1810 W. Adams
Phoenix, AZ 85007
Telephone: (602) 542-4263
Fax: (602) 253-7970
E-mail: Jbartatty@aol.com

10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when and how persons may request an oral proceeding on the proposed rule.

No proceedings are currently scheduled. Persons interested in this supplemental proposed rulemaking may submit written comments and obtain additional information or request an oral proceeding by contacting the Secretary of the Arizona Power Authority Monday through Friday from 8:00 a.m. until 5:00 p.m. (holidays excepted), at the following address:

Name: Rita Gallant, Secretary
Address: 1810 West Adams
Phoenix, AZ 85007
Telephone: (602) 542-4263
Fax: (602) 253-7970
E-mail: Rita@powerauthority.org

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

None

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

None

13. The full text of the changes follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 14. ARIZONA POWER AUTHORITY

ARTICLE 1. GENERAL

Section

R12-14-101. Definitions

**ARTICLE 2. AVAILABILITY OF LONG-TERM POWER;
APPLICATION FOR ELECTRIC SERVICE;
POWER PURCHASE CERTIFICATES**

Section

R12-14-201. Availability of Long-term Power; Contract Negotiations

R12-14-202. Application for Purchase of Electric Service

R12-14-203. Power Purchase Certificates; Application

ARTICLE 3. SERVICE TO PURCHASERS

Section

R12-14-301. Authority's Service to Purchasers

R12-14-302. Systems and Operation Plans

ARTICLE 4. ADMINISTRATION OF POWER

Section

R12-14-401. Sale, Use, Transfer, and Administration of Long-term Power

R12-14-402. Changing Points of Delivery; Switching of Electric Service Loads Among Points of Delivery Points

R12-14-403. Wheeling and Operating Agreements

R12-14-404. Disposition of Short-Term Power

R12-14-405. Cooperative Action Petition For Information, Advice, or Assistance

ARTICLE 5. RECORDS

Section

R12-14-501. Purchaser's Records

~~ARTICLE 6. CONFERENCES RULES OF PRACTICE AND PROCEDURE~~

Section

~~R12-14-601. General Procedure~~

~~R12-14-607, R12-14-601. Conferences~~

~~R12-14-602. Pleadings, Motions and Other Documents Repealed~~

~~R12-14-603. Proceedings Repealed~~

~~R12-14-604. Multiple Claims Repealed~~

~~R12-14-605. Rehearing and Appeals Repealed~~

~~R12-14-606. Arguments on Rehearing Repealed~~

~~R12-14-607. Renumbered~~

ARTICLE 1. GENERAL

R12-14-101. Definitions

In this Chapter, the definitions set forth in A.R.S. Title 30, Chapter 1 and in A.R.S. Title 45, Chapter 10 shall apply and, unless the context otherwise requires, the following definitions shall also apply:

1. "Banked Energy" means the electric Energy energy held under Banking an agreement ~~arrangements~~ for later delivery to a Purchaser.

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2. “Banking” means an agreement under which an arrangements whereby a Purchaser contracts with another Entity entity agrees to retain a portion of the Purchaser’s electric Energy energy for later delivery to the Purchaser.
3. “Capacity” means the electric load-carrying capability of an Electric Power System.
- ~~3-4.~~ “Conference” means an informal proceeding before the Commission at which formal action will not be taken by the Commission does not require a hearing in order to dispose of the subject matter.
4. “Control Area” means a part of a Power system or a combination of Power systems to which a common generation control scheme is applied.
5. “Control Area” means electric generating units and transmission lines in a defined geographic area that are controlled to ensure that adequate amounts of Power are available to be delivered to meet customer requirements and support reliable Electric Power System operation.
- ~~5-6.~~ “District” means any Power or water organization regulated comprehended by A.R.S. Title 30, Chapter 1 or A.R.S. Title 48 45 (as renumbered and set forth in A.R.S. Title 48) and formed under pursuant to law.
6. “Hearing Officer” means a person designated pursuant to Section R12-14-602(E) to act on behalf of the Commission in any proceeding before the Commission.
7. “Electric Power System” means the electric facilities and equipment by which:
 - a. Power is made available to a Purchaser; and
 - b. Power is delivered to a Purchaser’s customer.
8. “Energy” means electric energy made available to a Purchaser to meet an agreed-upon portion of the Purchaser’s load requirements.
9. “Entity” means any District, Operating Unit, or Person.
10. “Exchange” means a transfer of electric Power by a Purchaser to another Purchaser that is obligated to return a similar amount of Power upon terms and conditions and at the time or times approved by the Authority under R12-14-401(K).
11. “Load” means the electric Power required to meet a Purchaser’s demand for electric service.
- ~~7-12.~~ “Long-term Power” means a supply of Power that which is available to the Authority for a period more than in excess of 366 consecutive days and that which is subject to the jurisdiction of, and disposition by, the Authority, including any Power capacity or energy recaptured by the Authority and any Power capacity or energy Tendered tendered or Relinquished relinquished by a any Purchaser.
8. “Party” means any entity which is authorized by statute or by these rules to participate in an Authority proceeding.
9. “Pleading” means any application, petition, complaint, protest, objection, or motion required or permitted to be filed with the Authority.
13. “Point of Delivery” means the point or points on a transmission system where the Authority makes Power available for delivery to a Purchaser.
- ~~10-14.~~ “Power Pooling” Agreement” means an agreement for aggregating or commingling the Long-term Power supplies of two or more Purchasers.
- ~~11-15.~~ “Power Purchase Certificate” means the certificate required of a Purchaser under by A.R.S. § 30-151 et seq. before a prior to the date upon which the Purchaser enters into a Power Sales Contract.
- ~~12-16.~~ “Power Sales Contract” means a contract under which the Authority sells Long-term Power to a Purchaser.
- ~~13-17.~~ “Preference” means the priority of entitlement to Power according pursuant to A.R.S. § 30-125 or A.R.S. § 45-1708.
- ~~14-18.~~ “Purchaser” means any Qualified Entity that which holds a Power Purchase Certificate and contracts has contracted entered into a Power Sales Contract to purchase Power from the Authority under A.R.S. Title 30, Chapter 1; or which has entered into a Power Sales Contract contracted to purchase Power from the Authority under A.R.S. Title 45, Chapter 10.
- ~~15-19.~~ “Qualified Entity” means any District, Operating Unit, or Person person or other entity that which is eligible privileged to purchase Power from the Authority under pursuant to A.R.S. Title 30, Chapter 1 or A.R.S. Title 45, Chapter 10.
- ~~16-20.~~ “Recapture” means the recovery or retaking by the Authority from a Purchaser of Long-term Power by the Authority from a Purchaser that exceeds is excess to the Purchaser’s needs, for reallocation among other Qualified Entities.
21. “Relinquish” means a Purchaser’s return of unneeded Power to the Authority.
- ~~17-22.~~ “Secretary” means the person designated by the Commission to act as the official Secretary or as the Assistant Secretary of the Authority.
18. Service Territory” means the area defined by the legal descriptions and boundaries described in a Power Purchase Certificate, or any amendment to the that Power Purchase Certificate thereto, in which the holder may use utilize Long-term Power purchased under a Power Sales Contract according pursuant to A.R.S. Title 30, Chapter 1.
23. “Service Territory” means the geographic area in which Power is sold or used by a Purchaser and is described in a Power Purchase Certificate or an amendment to a Power Purchase Certificate.
- ~~19-24.~~ “Short-Term Power” means any supply of Power made available by or through the Authority for a period of no more than 366 consecutive days. or less.
25. “Tender” means a Purchaser’s offer to return unneeded Power to the Authority.

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~~20-26.~~ "Wheeling" means delivery of Power over the transmission system of another Entity party.

**ARTICLE 2. AVAILABILITY OF LONG-TERM POWER;
APPLICATION FOR ELECTRIC SERVICE;
POWER PURCHASE CERTIFICATES**

R12-14-201. Availability of Long-term Power; Contract Negotiations

- A. Except as provided in R12-14-401(B), ~~if when~~ the Authority decides that a supply of Long-term Power is available, the Authority shall give public notice ~~that it will of its intent to~~ receive applications for electric service from prospective Purchasers. The public notice shall include the date, time, and place ~~a schedule for the a~~ public information Conference at ~~which where~~ the Authority shall provide a preliminary proposal for the allocation and marketing of available information and details concerning the supply of Long-term Power available to Qualified Entities.
- B. The Authority shall give public notice of the date, time, and place ~~schedule~~ for a public comment Conference to be held not more than 60 days after the date of the public information Conference held under subsection (A). ~~An All~~ interested party parties may appear at the public comment Conference and present oral and written comments on the Authority's Long-term Power proposal provided at the public information Conference held under subsection (A).
- C. ~~In addition to any other requirements for notice,~~ Public public notice required by subsections subsection (A) and subsection (B) of this Section shall be mailed to:
1. Existing Purchasers; ~~and~~
 2. Prospective Purchasers that notify which have the Authority of their interest in applying for Long-Term Power indicated an interest, in writing, to the Authority; and
 3. Other Qualified Entities known to the Authority and identified on the Authority's current mailing list.
- D. Public notice required by subsections (A) and (B) shall also be published given by publication in a newspaper of statewide circulation once each a week for two consecutive weeks.
- ~~D.E.A~~ If a Qualified Entity wanting desires to enter into a Power Sales Contract, ~~it shall file an application for electric service under pursuant to Section R12-14-202. The Such~~ application shall be filed on or before the due date specified in the Authority's notice of intent to receive applications for electric service.
- ~~E.F.~~ Not later than Within 60 days after the due date for the filing of an application for electric service, the Authority shall notify all interested parties of the names and addresses of the prospective Purchasers entities that which are eligible to enter into a Power Sales Contract. The Authority shall include in the notice such notification a proposed shall also propose an set forth a proposed allocation of Long-term Power to the eligible prospective Purchasers entities.
- ~~F.G.~~ Not later than Within 90 days after notification of eligibility and of the proposed allocation, the Authority shall present a draft form of contract to each eligible prospective Purchaser and begin contract negotiations. ~~shall commence.~~
- ~~G.H.~~ After a reasonable period for contract negotiations are completed, the Authority shall prepare Power Sales Contracts and fix a date for contract signing, signings.
- ~~H.~~ The time periods specified in this Section may be modified by the Authority to serve the needs of the Authority, the prospective Purchasers, or the public.
- I. In allocating the allocation or reallocation of Long-term Power, ~~consideration the Authority shall consider:~~ be given, first, to
1. The financial interest interests and obligation obligations of the Authority; and ~~second, to~~
 2. The needs and interests of the Purchaser Purchasers, customers of the Purchaser Purchasers, and prospective Purchasers.
- J. Within each the class classes of or preference priorities established by A.R.S. § 30-125(A), the Authority shall allocate Long-term Power ~~shall be allocated~~ equitably among Qualified Entities in the same preference class based upon the needs of the such Entities and the type of use of Long-term Power within the Service Territory.
- K. In deciding whether to allocate or reallocate the allocation or reallocation of Long-term Power, the Authority shall consider give due consideration to a prospective Purchaser's access to other sources of Power available to the prospective Purchaser from the Federal Government.

R12-14-202. Application for Purchase of Electric Service

- A. A Any Qualified qualified Entity ~~that which~~ desires to purchase Long-term Power shall file a written application for electric service with the Authority. The application shall include the following:
1. The Entity's applicant's proposed use of Long-term Power;
 2. The Point or Points points of Delivery delivery where at which the Entity applicant will desires to receive electric service;
 3. The annual energy requirement requirements for which the applicant is willing to contract, stated in kilowatt-hours, for each Point point of Delivery delivery;
 4. The maximum capacity requirement requirements for which the applicant is willing to contract, stated in kilowatts, for each Point point of Delivery delivery during a continuous 12-month period; and
 5. A statement of the Entity's applicant's kilowatt and kilowatt-hour sales or usage during each of the 24 months immediately preceding the date of the application, divided into ~~convenient~~ reference classifications, such as residential,

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commercial, irrigation pumping, industrial, public use, or such other convenient classification used by the Entity applicant or recognized in the electric utility industry.

- ~~B.~~ ~~An application form~~ Application forms for electric service ~~is shall be~~ available at the Authority's business office.
- C. If the Authority determines that an applicant is eligible to enter into a Power Sales Contract for Long-term Power offered under A.R.S. Title 30, Chapter 1, the applicant, within 30 days after receipt of notice of eligibility, shall file an application for a Power Purchase Certificate ~~under pursuant to~~ R12-14-203.
- D. The holder of an existing Power Purchase Certificate shall ~~not be required to re-apply for a Power Purchase Certificate only if the holder wants to use unless the Long-term Power applied for will be used in a Service Territory that differs from the Service Territory described specified in the holder's applicant's existing Power Purchase Certificate.~~
- ~~D.~~ ~~The time period specified in subsection (C) may be modified by the Authority to serve the needs of the applicant or the needs of the Authority.~~

R12-14-203. Power Purchase Certificates; Application

- A. An application for a Power Purchase Certificate, or an application to amend an existing Power Purchaser Certificate, shall be dated, signed, and verified by the applicant or ~~the applicant's an~~ authorized representative. ~~An The~~ original and five copies of the application and any documents, maps, or other written material ~~to which reference is made in the application~~ shall be filed with the Authority.
- B. ~~An application form~~ Application forms for a Power Purchaser Certificate ~~is Certificates shall be~~ available at the office of the Authority's business office.
- C. The application shall include the information required by A.R.S. § 30-152 and the following:
 - 1. A statement of the nature of the applicant's business, ~~if the applicant applicant's legal status (as for example, is a corporation, a partnership, or other business type; and~~
 - 2. ~~The applicant's~~ mailing address;
 - 3. ~~A detailed An accurate~~ description of the ~~proposed desired~~ Service Territory;
 - 4. The name and mailing address of the principal executive officer or secretary of each ~~District or Operating Unit and of any natural person or other Entity entity~~ engaged in the distribution of Power within the ~~proposed~~ Service Territory or contiguous to the ~~Proposed~~ Service Territory;
 - 5. The ~~estimated~~ amount of Long-term Power ~~estimated for each use proposed by the applicant; whether sale or distribution of Long-term Power is to be on a profit or a non-profit basis, and whether the applicant will use Long-term Power, resell it, or both.~~
 - 5. A description of applicant's electric system in sufficient detail for the Authority to judge the applicant's capability to use Long-term Power. ~~If the applicant intends to use an electric system owned by another entity, a copy of any intended or existing agreement with the owner pertaining to such use shall accompany the application. If the applicant proposes to construct, purchase, lease, or otherwise obtain the use of a system for sale or distribution of Long-term Power, the details of such proposal shall be provided.~~
 - 6. ~~Whether the applicant intends to sell Long-term Power on a profit or a non-profit basis;~~
 - 7. ~~Whether the applicant intends to use Long-term Power for its own use, resell Long-term Power, or use and resell the Long-term Power;~~
 - 8. ~~A detailed description of the applicant's Electric Power System for the use of Long-term Power;~~
 - 9. ~~A copy of any agreement under which the applicant intends to use an Electric Power System owned by another Entity;~~
 - 10. ~~The details of any plan under which the applicant proposes to construct, purchase, lease, or obtain the use of an Electric Power System for sale or distribution of Long-term Power; and~~
- ~~D.~~ ~~11. An explanation of The applicant shall explain~~ any arrangements with other Entities entities for the use of electrical equipment or facilities ~~that required for the applicant needs in order to use Long-term Power. If any other Entity entity claims ownership of, or transmission rights on, any electric facilities to be used utilized or if the applicant will duplicate another Entity's electric facilities duplicated by the applicant, the applicant shall disclose that such information. Where If the applicant's arrangements appear to conflict with the rights of another Entity entity, the applicant may file an affidavit signed by an authorized officer of the entity affected Entity, describing disclosing that the affected Entity's agreement to the satisfactory arrangements for the applicant's use. have been consummated.~~
- ~~E.D.~~ ~~When Upon the filing of the application is filed,~~ the Authority shall immediately set a date for a hearing ~~under pursuant to~~ A.R.S. § 30-152.
- ~~F.E.~~ A Power Purchase Certificate ~~is shall remain~~ in effect only during ~~the such time as the holder of the Power Purchase Certificate thereof~~ has an existing Power Sales Contract with the Authority.
- ~~G.F.~~ The ~~holder of legal descriptions and boundaries set forth in a Power Purchase Certificate shall fix and establish the Service Territory in which the holder may use utilize Power under a Power Sales Contract only in the Service Territory established by the legal description in the Power Purchase Certificate.~~
- ~~H.G.~~ The holder of a Power Purchase Certificate shall not ~~assign the Power Purchase Certificate be assigned~~ without the prior written approval of the Authority.

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ARTICLE 3. SERVICE TO PURCHASERS

R12-14-301. Authority's Service to Purchasers

- A. The Authority shall contract with a Purchaser to deliver Long-term Power, ~~only if provided~~ transmission capability is available to ensure delivery of Long-term Power to the Purchaser at the ~~Point point~~ or ~~Points points~~ of ~~Delivery delivery~~ to be designated in the Power Sales Contract. The Authority may also contract with ~~a the~~ Purchaser to provide opportunities for connection between the Purchaser's ~~Electric electric Power System system~~ and the ~~Electric electric Power System system~~ of other ~~Entities entities~~.
- B. Before Long-term Power is made available to a Purchaser, the Purchaser shall provide evidence ~~to the Authority that a~~ transmission system is available ~~capability~~ to ~~enable the Purchaser to~~ take and receive Long-term Power at the locations and voltages designated by the Authority.
- C. Unless ~~the Authority agrees to~~ provide facilities for ~~the otherwise agreed by the~~ transmission of electric Power, ~~the facilities must be provided by the Purchaser service~~.
- D. The Authority may ~~investigate and~~ obtain ~~an~~ alternative or ~~an~~ additional ~~source sources~~ of transmission service to serve the needs of a Purchaser. ~~and~~
- E. The Purchaser shall pay ~~any costs or expenses necessary to provide transmission service to the Purchaser for the service in proportion to the benefits it receives~~.
- ~~C.F.~~ By agreement with one or more Purchasers, the Authority may construct electric lines and related facilities of the voltage and capacity needed to serve ~~the a~~ Purchaser or ~~Purchasers~~ or as warranted by available loads. The agreement must assure full payment by the users of ~~the~~ operating costs, depreciation and interest, and any other costs or expenses associated with ~~the a~~ any such project, during a 40-year amortization period or ~~such~~ other period established by law or contract. If the Authority constructs ~~the such~~ facilities, the Authority shall determine the incremental costs ~~to shall be paid by the added to the charges to any~~ Purchaser or other user ~~benefitting from the such facilities constructed by the Authority~~.
- ~~D.G.~~ With the aid of Purchasers, the Authority shall ~~work endeavor~~ to maintain a system of load scheduling and records so that the Authority may reasonably predict:
1. A Purchaser's current and future Power needs;
 2. Whether a Purchaser should be allowed or required to ~~Relinquish relinquish or surrender~~ Long-term Power ~~that which~~ is surplus to ~~the that~~ Purchaser's needs; and
 3. Whether a Purchaser will have Long-term Power ~~that which~~ is temporarily or permanently surplus to the Purchaser's needs.
- ~~E.H.~~ The Authority shall periodically perform surveys to:
1. Identify sources of Power or transmission service ~~that which~~ may be temporarily or permanently available to the Authority; ~~and~~
 2. Identify possible markets for ~~available Power those such~~ resources; and
 3. Identify possible markets for Recaptured, ~~Relinquished, relinquished~~ ~~Tendered tendered~~, or temporarily-available surplus Long-term Power.

R12-14-302. Systems and Operation Plans

For the Authority's information and assistance in the administration of its Power Sales Contracts, ~~a any~~ Purchaser ~~that which~~ does not manage and operate its own ~~Electric electric Power transmission and distribution System system~~ shall, at the Authority's request, submit a plan for the use and administration of Long-term Power. The ~~Purchaser plan shall attach to the plan, be accompanied by any such~~ maps, ~~plans,~~ specifications, and agreements ~~as may be necessary to disclose the nature and extent of the such~~ plan.

ARTICLE 4. ADMINISTRATION OF POWER

R12-14-401. Sale, Use, Transfer, and Administration of Long-term Power

- A. ~~A Purchaser shall not enter into an agreement for No~~ Power Pooling Agreement affecting Power under the Authority's jurisdiction ~~shall be made~~ without the prior written approval of the Authority. ~~The Authority which approval shall not be unreasonably withhold approval. withheld.~~
- B. Subject to the terms ~~of a Purchaser's in its~~ Power Sales Contract ~~with the Authority~~, a Purchaser may ~~Tender tender~~ or ~~Relinquish relinquish~~ surplus Long-term Power to the Authority for resale by the Authority.
- C. The Authority shall use its best efforts to sell ~~a Purchaser's such~~ ~~Tendered relinquished~~ or ~~Relinquished tendered~~ Long-term Power and shall apply the net proceeds from the sale toward the Purchaser's payment obligations under ~~the Purchaser's its~~ Power Sales Contract.
- D. Long-term Power ~~so~~ ~~Tendered relinquished~~ or ~~Relinquished tendered~~ to the Authority shall be returned to the Purchaser not more than 60 days after the Authority's receipt of the Purchaser's written notice that ~~the Purchaser it~~ requires a return of the ~~Tendered tendered~~ or ~~Relinquished relinquished~~ Long-term Power to meet the Purchaser's loads.
- ~~C.E.~~ ~~The No~~ ~~Tender tender~~ or ~~Relinquishment relinquishment~~ of Long-term Power shall ~~not~~ relieve the Purchaser of its obligations under its Power Sales Contract. ~~nor shall such~~ ~~The Tender tender~~ or ~~Relinquishment relinquishment~~ of Long-term Power shall not be deemed to be a Recapture by the Authority unless:

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1. ~~The Such Tender tender or Relinquishment relinquishment~~ is for the unexpired term of the Purchaser's Power Sales Contract; and
 2. The Authority has contracted to sell ~~the such Tendered tendered or Relinquished relinquished~~ Long-term Power to another Qualified Entity under the same terms and conditions as those for a term and at a price not less than the term and price contained in the Purchaser's Power Sales Contract.
- ~~D.E.~~ Subject to the terms of ~~a~~ the Purchaser's Power Sales Contract, if ~~for any reason, all or a portion of~~ the Long-term Power purchased from the Authority exceeds the Purchaser's electric load for ~~a period of three consecutive contract years,~~ the Authority may Recapture ~~all or a portion of the Purchaser's excess~~ Long-term Power as follows:
1. The Authority shall give the Purchaser at least 30 day's ~~prior~~ written notice of ~~a hearing on~~ the Authority's intention to Recapture ~~the~~ Long-term Power;
 2. The Authority shall determine ~~if~~ the Purchaser's Long-term Power allocation can be reasonably expected to exceed; ~~in whole or in part,~~ the Purchaser's future needs;
 3. ~~The Authority shall determine if any~~ Any portion ~~or all of the Purchaser's Long-term Power which the Authority determines exceeds to be excess to the Purchaser's needs, and the Authority may Recapture the excess portion; may be Recaptured by the Authority;~~
 4. Any ~~such~~ Recapture of Long-term Power is shall be effective 60 days after ~~the date upon which~~ the Purchaser receives a "Notice of Recapture" from the Authority, or at ~~a such later date as is~~ specified in the "Notice of Recapture"; and
 5. Any Recapture of Long-term Power reduces shall ~~reduce~~ the Purchaser's allocation of entitlement to Long-term Power by the amount of Long-term Power recaptured by the Authority the Recapture. ~~Unless the context otherwise requires, the provisions of Article 6 shall apply to any hearing required by this paragraph.~~
- ~~E.~~ Except as permitted by a Power Sales Contract, a Purchaser shall not transfer or assign a Power Sales Contract, or any interest in a Power Sales Contract therein, unless first approved by the Authority. Unless otherwise provided by law or contract, an assignment or transfer of a Power Sales Contract, or any interest therein, shall not relieve the Purchaser from any obligation under the such contract without the prior written consent of the Authority.
- ~~G.~~ A Purchaser shall not transfer or assign a Power Sales Contract or any interest in a Power Sales Contract without prior written approval by the Authority. The transfer or assignment of a Power Sales Contract or any interest in a Power Sales Contract does not relieve the Purchaser from any obligation under the Purchaser's Power Sales Contract.
- ~~F.H.~~ The Authority shall not approve an assignment of a Power Sales Contract, or any interest in a Power Sales Contract that: therein shall not be approved by the Authority unless the such assignment is made in good faith and for a justifiable cause or reason. The Authority shall not approve any assignment which that:
1. Conflicts with any provision of law;
 2. Conflicts with the Authority's regulations;
 3. Conflicts with any provision of a Purchaser's Power Sales Contract;
 4. ~~Disrupts~~ Has the effect of disrupting established Power practices, an Electric Power System, or electric facilities;
 5. ~~Results May result~~ in an increased cost of service to other Purchasers; or
 6. ~~Confers May confer~~ a Preference upon an Entity entity not entitled to Preference. ~~thereto.~~
- ~~I.~~ The Authority shall not approve ~~Further,~~ an assignment of a Power Sales Contract or an interest in a Power Sales Contract ~~shall not be approved~~ if the Authority determines that ~~an~~ the assignment is discriminatory or that ~~the~~ Long-term Power or rights to Long-term Power should be recaptured by the Authority for reallocation, ~~and~~ sale or other disposition to other Qualified Entities.
- ~~G.I.~~ A Power Sales Contract may restrict or prohibit the wholesale sale or resale of Long-term Power by the Purchaser.
- ~~H.K.~~ The holder of a Power Purchase Certificate shall use Long-term Power shall be used only for the purposes and uses for which it is allocated and sold. Long-term Power allocated and sold under pursuant to A.R.S. Title 30, Chapter 1 shall be used only within the Service Territory established in the Purchaser's Power Purchase Certificate, unless otherwise authorized in writing by the Authority. The Authority may authorize Banking banking of electric Energy energy and Exchange exchange of Banked Energy between Purchasers in the same Control Area may be authorized under terms and conditions approved by the Authority.

R12-14-402. Changing Points of Delivery; Switching of Electric Service Loads Among Points of Delivery Points

~~Unless prohibited by law, regulation, or contract, and whenever the capacities, contractual relationships, and arrangement of facilities so permit,~~ The the Authority may allow a Purchaser to change its electric service from ~~a one Point point of Delivery delivery~~ to ~~another one or more other Point or Points points of Delivery delivery.~~ Each new ~~Point point of Delivery delivery~~ shall be a separate ~~Point point of Delivery delivery~~ for the Authority's billing purposes unless ~~a the new Point point of Delivery delivery~~ replaces an existing ~~Point point of Delivery delivery.~~ A Purchaser cannot change or switch its ~~Changing~~ electric service between ~~the Purchaser's Points points of Delivery delivery~~ and the Points of Delivery of ~~other different~~ Purchasers ~~shall not be permitted~~ without the prior written approval ~~consent~~ of the Authority.

R12-14-403. Wheeling and Operating Agreements

~~A.~~ A Purchaser who ~~wants~~ desires to enter into an agreement for Power Pooling or an agreement with another Entity with regard to power operations, transmission, or Wheeling involving Long-term Power shall:

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1. ~~first~~ Petition ~~petition~~ the Authority for permission to enter into an agreement;
 2. ~~The petition shall State in the petition~~ all relevant facts and ~~shall set forth~~ the reasons for the proposed agreement; and
~~The petition shall also file copies~~
 3. Give the Authority a copy of any proposed agreement and ~~such~~ other information, data, and documents ~~as may be~~ requested by the Authority.
- B.** ~~A Purchaser shall not enter into an An~~ agreement for the transmission or Wheeling of Long-term Power over the facilities of ~~another Entity others shall not be made~~ without the prior written approval of the Authority.
- C.** An operating agreement, transmission agreement, Power Pooling agreement, or Wheeling agreement shall not be approved by the Authority if the agreement:
1. Conflicts ~~conflicts~~ with the provisions of any Power Sales Contract;
 2. Results ~~result~~ in disruption of established electric service, operations, practices, systems, or facilities; or
 3. Endangers ~~endanger~~ electric service to other Purchasers, to third parties, or to the general public.

R12-14-404. Disposition of Short-Term Power

The Authority may negotiate and enter into ~~a mutually acceptable contract or~~ contracts with Qualified Entities for the sale, purchase, exchange, or other disposition of Short-term Power.

R12-14-405. Cooperative Action Petition For Information, Advice, or Assistance

- A.** ~~Under Pursuant to~~ A.R.S. § 30-129 and A.R.S. Title 45, Chapter 10, any Entity Party may petition the Authority for information, advice, ~~aid,~~ or assistance regarding any matter within the jurisdiction of the Authority. The ~~Such~~ petition shall be in writing and shall include:
1. The names of all interested or affected Entities; ~~entities~~
 2. The basis for the requested information, advice, aid, or assistance;
 3. The location of any Project ~~project~~ involved;
 4. The action requested of the Commission; and
 5. Other ~~other~~ information or relevant matter that ~~which~~ may assist the Commission in acting upon the petition a
request.
- B.** The Commission may direct the Authority staff or an Authority consultant to conduct preliminary studies, surveys, or investigations with respect to any requested action.
- B.C.** ~~If a Conference regarding a petition filed with the Authority is deemed~~ appropriate, the Commission shall schedule a Conference, pursuant to R12-14-607. The Authority notifying shall notify all interested Entities ~~entities that they shall be notified of the such Conference. and Any interested entity~~ may make an oral or written presentation and file documents, reports, or other material relevant to the requested ~~cooperative~~ action.
- C.D.** ~~The Authority staff or consultants to the Authority may make such preliminary studies, surveys, or investigations as the Commission directs with respect to any requested cooperative action. If the Commission determines that a hearing or other proceeding is appropriate, the Commission may take appropriate interim action and may enter into letters of understanding or preliminary agreements with the petitioner and all other interested entities.~~

ARTICLE 5. RECORDS

R12-14-501. Purchaser's Records

At the request of the Authority, a Purchaser shall file copies of agreements ~~contracts~~ for the purchase, sale, Exchange exchange, transmission, Banking, Power Pooling, or and Wheeling of Long-term Power between the Purchaser ~~it~~ and any Entity ~~entity~~ other than the Authority, together with all current rate schedules and amendments ~~thereto~~.

ARTICLE 6. CONFERENCES RULES OF PRACTICE AND PROCEDURE

R12-14-601. General Procedure

- A.** Unless otherwise required by law, all hearings shall be scheduled at the convenience of the Commission. Unless otherwise ordered by the Commission, hearings shall be held at the Authority's business office in Phoenix, Arizona.
- B.** Unless otherwise provided by law, the Commission may reschedule, recess, continue or adjourn a hearing. Unless otherwise provided by law, the Commission may extend or shorten a specified time period upon the motion of any Party.
- C.** Except as otherwise required by law, the Arizona Administrative Procedure Act (A.R.S. § 41-1001 et seq.) shall apply to all hearings or rehearings before the Commission.
- D.** All pleadings and any supporting documents, exhibits or other communications or correspondence pertaining to any matter before the Commission shall be filed with the Secretary at the Authority's business office in Phoenix, Arizona.
- E.** The Commission may designate a member of the Commission, a member of the Authority staff, or any other individual to act as a Hearing Officer in any Commission proceedings.
- F.** If necessary or appropriate, the staff of the Authority may participate in any proceeding as a Party.

R12-14-607. R12-14-601. Conferences

- A.** After first giving Pursuant to not less than ten day's public notice, the Commission may hold a call or invite an informal Conference concerning any subject matter within the jurisdiction of the Authority. The Conference agenda shall be deter-

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mined by the Commission. A Conference is intended to provide information regarding ~~and facts with regard to~~ any pending or proposed course of action by the Commission. ~~A~~ no formal or binding action shall not be taken by the Commission at a Conference.

- B. The Commission shall establish the date, time, and place of any Conference and may continue, adjourn, or reschedule any Conference.

R12-14-602. Pleadings, Motions and Other Documents Repealed

- ~~A.~~ A proceeding under A.R.S. § 30-152 shall be initiated by filing an “application”. A proceeding under A.R.S. § 30-171 shall be initiated by filing an initial pleading entitled “petition”, “complaint”, “protest”, or “objection”, whichever most clearly addresses the issue raised by the Party. Responsive pleadings shall designate in the caption or heading the identity and interest of the Party responding to an initial pleading.
- ~~B.~~ The specific grounds of any application, petition, complaint, protest or objection filed with the Authority shall be set forth in the initial pleading; provided, however, that A.R.S. § 30-171(D) shall control the grounds upon which any initial pleading may be filed pursuant to A.R.S. § 30-171.
- ~~C.~~ All motions shall be in writing, shall indicate the nature of the relief requested, and shall be accompanied by a memorandum indicating the legal points, statutes, and authorities relied upon. Motions shall be served on all other Parties to the proceeding. Any Party opposing a motion shall file and serve an answering memorandum within 20 days after service of such motion. Within ten days after service of an answering memorandum, the moving Party may file and serve a reply memorandum directed only to matters raised by the answering memorandum.
- ~~D.~~ All pleadings shall be signed and verified by the Party or by its authorized representative.
- ~~E.~~ An original and five copies of each pleading shall be filed with the Secretary. One copy of each pleading shall be served upon each other Party appearing in the matter.
- ~~F.~~ Amendments to pleadings shall not be accepted for filing unless received by the Secretary at least 20 days prior to the date of any scheduled hearing.
- ~~G.~~ Pleadings or other documents permitted or required to be filed with the Authority may be transmitted by mail, personal service, or other method which shall assure delivery, but all such pleadings and documents must be actually received for filing on or before 5:00 p.m. of the last day prescribed for such filing. Whenever a Party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice of paper is served upon him by mail, five days shall be added to the prescribed period.

R12-14-603. Proceedings Repealed

- ~~A.~~ Unless the Commission has selected a Hearing Officer to preside, the Chairman of the Commission shall preside at all proceedings and shall rule upon all questions concerning prehearing, hearing or post-hearing procedures and evidence. Any Commissioner may attend any proceeding and may ask relevant questions of any Party.
- ~~B.~~ During a proceeding, the Secretary shall act as Clerk and shall administer oaths; mark, maintain, and preserve exhibits and other evidence; and perform such other duties as may be assigned by the Chairman, Hearing Officer, or members of the Commission.
- ~~C.~~ The Authority’s legal counsel shall attend all proceedings and advise the presiding officer on all legal matters arising out of or related to the proceeding. The Authority’s legal counsel shall also prepare any pleadings, briefs, or other documents pertaining to the Authority’s interests and shall prepare notices proposed orders, and other procedural documents requested by the Commission. If the Commission determines that it, the Authority staff, or the presiding officer requires independent legal counsel, the Authority shall retain such legal counsel pursuant to applicable Arizona law.

R12-14-604. Multiple Claims Repealed

When more than one claim for relief is presented in any matter pending before the authority, the Commission or Hearing officer may direct the entry of a final decision on one or more but fewer than all of the Parties’ claims only upon an express determination that there is no just reason for delay. In the absence of such determination, any action or decision which addresses fewer than all the Parties’ claims shall not terminate the matter as to any of the Parties’ claims, and the action or decision is subject to revision before the entry of the final decision of all Parties’ claims.

R12-14-605. Rehearing and Appeals Repealed

- ~~A.~~ Subject to A.R.S. § 30-172, any final decision may be vacated and a rehearing granted on motion of the aggrieved Party for any of the following causes materially affecting such Party’s rights:
 1. Irregularity in a proceeding of the Commission, or of the Hearing Officer or of the prevailing Party, or any order or abuse of discretion whereby the moving Party was deprived of a fair proceeding;
 2. Misconduct of the prevailing Party;
 3. Accident or surprise which could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence could not be discovered or produced at the time of the hearing or prehearing with the exercise of reasonable diligence;
 5. Error in the admission or rejection of evidence or other errors of law occurring during a proceeding;
 6. Any action or decision of the commission which is the result of passion or prejudice; or
 7. Any action or decision of the Commission which is not justified by the evidence or is contrary to law.

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- ~~B.~~ A rehearing may be granted to all or any of the Parties and on all or part of the issues. On a motion for rehearing, the Commission may reopen the proceedings; take or admit additional testimony and other evidence; and modify, amend, rescind, or affirm any final decision.
- ~~C.~~ A motion for rehearing shall be in writing, shall specify generally the grounds upon which the motion is based, and shall be filed not later than 20 days after a final decision. If the motion for rehearing is based upon the general ground that the Commission erred in admitting or rejecting evidence, the Commission shall review all rulings upon objections to evidence. If the motion for rehearing is based upon the general ground that the final decision of the commission is not justified by the evidence, the Commission shall review the sufficiency of the evidence.
- ~~D.~~ When a motion for rehearing is based upon affidavits, the affidavits shall be served with the motion. Any opposing Party shall have ten days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the Commission for good cause shown or by the Parties upon written stipulation. The Commission may permit reply affidavits.
- ~~E.~~ Not later than 20 days after the effective date of any final decision, the Commission, on its own initiative, may order a rehearing for any reason for which a rehearing might have been granted upon motion of a Party. After giving the Parties notice and an opportunity to be heard, the Commission may grant a rehearing, upon a motion timely served, for a reason not stated in a motion for rehearing.
- ~~F.~~ A rehearing, if granted, shall be only a rehearing of the question or questions with respect to which the decision is alleged to be erroneous.
- ~~G.~~ An order granting a rehearing shall state specifically the issues or questions presented and the ground or grounds upon which the rehearing is granted.
- ~~H.~~ Any final decision is subject to appeal to the Superior Court of Maricopa County, Arizona, as provided by A.R.S. § 30-173, or as otherwise provided by law.

R12-14-606. Arguments on Rehearing Repealed

Applications for oral argument on rehearing shall be granted or denied in the discretion of the Commission and the Commission shall fix the time limits for oral argument.

R12-14-607. Renumbered