

ARIZONA INDEPENDENT SCHEDULING ADMINISTRATOR ASSOCIATION

Twenty-Sixth Special Meeting of Board of Directors
August 21, 2000, at 9:00 AM MST
Grand Canyon State Electric Cooperative Association
120 N 44th Street, Suite 100
Phoenix, Arizona

APPROVED MINUTES

I. Call to Order

Acting Executive Director Patrick J. Sanderson called the meeting to order at 9:05 a.m.

II. Establish Quorum

The presence of a quorum was ascertained. All present were welcomed and introduced.

Directors present: Cary Deise, Dennis Delaney, Lindy Funkhouser, Kevin Higgins, Larry Huff (via teleconference), Rob Kondziolka, Leroy Michael, Vann Prater, Martin Ochotorena, and Pat Sanderson (Chair).

Others present: Steve Henry, Jessica Youle, Asher Emerson, Deb Scott, Ray T. Williamson, Stuart Caplan, Resal Craven, Marcie Otondo, Linda James, Kirsten Moore, John Wallace, Elizabeth Story, Ed Beck (via teleconference), and Peggy Drumm.

III. Appoint Corporate Secretary

Peggy Drumm agreed to act as Corporate Secretary for the meeting.

IV. Approve Agenda

Cary Deise moved to accept the agenda as drafted; Rob Kondziolka seconded the motion. The motion passed unanimously.

V. New Board Member

Vann Prater nominated Martin Ochotorena, California Power Exchange Corporation, to replace Tom Delaney to represent the Independent Generators and Wholesale Power Marketers Class. Leroy Michael so moved, and Vann Prater seconded the motion. The motion was approved unanimously.

VI. Approve Minutes from 7/17/00 Meeting

The draft minutes of the July 17, 2000, Board meeting were presented. There were no changes or corrections. Vann Prater moved that the minutes be approved; Cary Deise seconded the motion. The motion was approved unanimously.

VII. Judge Campbell Decision (TEP v. ACC) Report

Pat Sanderson asked Steve Henry to update the Board on the Judge Campbell Decision. Mr. Henry reviewed the filings to date and reported that an oral argument had not yet been scheduled. He advised the Board that the oral argument would probably not be heard before September, so a final order would probably not be forthcoming before the end of September or sometime in October. He pointed out that nothing in the ruling would change the fact that the Az ISA is a valid corporation in Arizona, and that contracts created by the corporation are valid and enforceable. He said that the effect of the case would not be to invalidate the contracts, but he did confirm that it could create an issue.

During a brief discussion, Steve Henry and Stuart Caplan responded to questions from the Board and others in attendance. Mr. Caplan explained that the agreements, being considered by the Board today, explicitly contemplate that the ACC rule could be invalidated, however unlikely. Accordingly, he said that a party challenging the contracts on the basis that they are automatically invalid if the ACC Rule is invalidated would be on weak ground. Mr. Caplan also indicated that if a party appeals the Judge Campbell decision, it was his understanding that the decision would be stayed. Deb Scott of the ACC confirmed this.

Upon inquiry, Deb Scott, ACC, said that the rules remain in effect until there is a final judgment. It was questioned whether the affected utilities would be willing to proceed under the circumstances. General comment was that they would be willing to proceed, and that it could take up to a year to resolve the issues.

VIII. AZ ISA Risk Assessment – E&O Insurance

Steve Henry led the discussion regarding E&O Insurance. Copies of proposals from Royal Surplus Lines and National Union Fire Insurance Company of Pittsburgh, PA, were included in the Board package. Mr. Henry explained that he had looked for coverage with greater limits, \$10 million per occurrence with \$20 million in the aggregate, but no insurer was willing to quote at this time due to a lack of Az ISA assets. The policies available offer options of \$1 million per occurrence with \$ 5 million in the aggregate or \$2 million per occurrence with \$5 million in the aggregate. He will continue to check on the possibility of umbrella coverage to go over the E&O coverage. Mr. Henry indicated neither insurer would agree to endorse the E&O policy to provide defense costs outside the limits of coverage. Mr. Henry then summarized the two policies and, based on a

comparison of the two, he suggested that the National Union Policy might be the more appropriate policy.

Mr. Henry explained that the Az ISA's exposure at this time is relatively limited and that Phase II may create more exposure. At that time it may be appropriate to consider a risk consultant and the possibility of raising coverage amounts then. He pointed out that the policy would be put in place for when the FERC filing is approved. Summarizing, he suggested that the decisions of the Board are whether they want E&O insurance, what limits are needed, and the amount the Board is willing to pay for the coverage. The Board discussed these points.

Kevin Higgins moved that Pat Sanderson arrange for a policy through National Union Fire Insurance Company of Pittsburgh, PA, with limits of \$2 million per occurrence and \$5 million in the aggregate, with a deductible of \$25,000 per occurrence, which will go into effect prior to Az ISA entering into the ISA-TP and the ISA-TP-SC Agreements. Vann Prater seconded the motion. There was no further discussion, and the motion was approved unanimously.

IX. Az ISA FERC Filing and Implementation Plan

Pat Sanderson brought to the attention of the Board Leroy Michael's memo, dated August 19, 2000, regarding this agenda item. A copy of the memo is attached, by Mr. Michael's request, to these minutes.

Mr. Sanderson pointed out the documents to be included in the FERC filing package, which were also included in the Board package. Stuart Caplan reviewed the two primary missions that were assigned at the July 17 Board meeting – to clarify the schedule for implementation of the Az ISA Protocols manual and make the documents consistent with that schedule, and to resolve issues brought forth by AEPCO at the July 17 meeting. He explained that he believed the issues, the matters of substance, have been addressed, and the redlined documents included in the Board package reflect the resolution.

Larry Huff noted that AEPCO had reviewed the changes to the ISA-TP Agreement with Huber Lawrence & Abell, but not the other FERC filing documents. He could not confirm that all of AEPCO's issues had been addressed in the other FERC filing documents. Mr. Huff expressed support of Leroy Michael's concerns as expressed in Mr. Michael's previously noted memo. Further, as a Board member, Mr. Huff will support the filing but he is not speaking for AEPCO. Cary Deise also expressed some concerns and noted that as a Board member he could support the filing as it is, but APS could intervene at a later time. The Board decided to discuss specific changes to the documents as noted below.

The timing of the filing was discussed, with agreement that it should be done as soon as possible. Mr. Caplan noted that it would probably be filed the end of August or beginning of September. There was a brief discussion as to how to proceed to obtain ACC support for the package. ACC staff will work with Pat Sanderson and Stuart Caplan to provide further direction and guidance on the next appropriate steps.

(Break, 10:35 a.m. – 10:50 a.m.)

Pat Sanderson provided copies of “Insert 21-A” and APS’s proposed changes to the “Rate Schedule No. 1” document of the FERC filing package. After some discussion, it was agreed that the sentence (Insert 21-A) would be inserted after the first paragraph of Section 8.02, before item (a), in both the ISA-SC-TP and ISA-TP Agreements. The sentence to be inserted reads:

“Any party initiating internal dispute resolution or external arbitration resolution procedures under this section shall provide the Az ISA with notice specifying the basis of the dispute and shall provide the Az ISA with a good faith estimate of the amount in dispute, if any.”

It was suggested, discussed, and agreed to include the following phrase at the end of Section 15.02 of both the ISA-SC-TP and ISA-TP Agreements:

“... , except to the extent said damages were the direct result of the Az ISA’s intentional misconduct or gross negligence.”

A copy of APS’s proposed changes to the “Rate Schedule No. 1” was faxed to Ed Beck, who was participating via teleconference. After discussion, it was agreed the following changes to Sections 2.01 and 2.03 of the “Rate Schedule No. 1” would be made. Section 2.01 would read:

“Aggregate Retail Load (“AGGRL”) – the sum of all Transmission Providers’ Retail Load for the billing month.”

Section 2.03 would read:

“Deficiency (“DEF”) – any expenses not known to or included by the Az ISA in the calculation of a prior month’s Operating Costs or over collection of prior OC which amount shall be shown as a negative. DEF, however, shall not include any TP’s over- or underpayment to the Az ISA, where the TP did not pay the Az ISA the amount properly billed by the Az ISA in accordance with Rate Schedule No. 1.”

The Board recessed for lunch at 12:10 p.m. and reconvened at 12:50 p.m.

The Board discussed the “Implementation Plan Detail, August 21,2000” versus the “Proposed Implementation Plan Revision 1, August 21, 2000,” as there was some confusion as to the differences between the two. Pat Sanderson explained that the detailed version was included to show the reconciliation of the terminology throughout the documents, so that it is consistent with the Protocols Manual and the other documents, per

the Board’s direction of the July 17 meeting. It was pointed out that there are some remaining inconsistencies, in particular, the use of “Phase 3” in the Obligations Matrix of the “Implementation Plan Detail, August 21,2000.” In addition, it was pointed out that some of the costs are inconsistent between the plans. Pat Sanderson explained that the detailed plan is the correct one relative to costs. It was agreed that the discrepancies would be corrected and the two plans combined into one plan.

Cary Deise moved to accept the FERC filing package as amended, which shall include the following seven documents:

- FERC Filing Letter
- Start-Up Agreement
- ISA-TP Agreement
- ISA-SC-TP Agreement
- Jerry W. Smith Affidavit
- Az ISA Protocols Manual
- Rate Schedule No. 1

Kevin Higgins seconded the motion. Stuart Caplan explained that the FERC Tariff would include the Az ISA Protocols Manual, ISA-TP Agreement, ISA-SC-TP Agreement, and the Rate Schedule No. 1, only. He also explained that the FERC Filing will include the FERC Tariff and the filing letter and supporting affidavit. The Startup Agreement will not be filed. Pat Sanderson asked to clarify that this approval gives the attorneys the direction to file the FERC package. It was affirmed. Leroy Michael requested, and it was agreed, that a roll call vote be taken and that an opportunity for each Board member to provide an explanation of their vote be given.

Roll Call Vote to Approve FERC Filing Package

	<u>Approve</u>	<u>Not Approve</u>
Kevin Higgins	X	
Dennis Delaney		X
Lindy Funkhouser	X	
Cary Deise	X	
Vann Prater	X	
Leroy Michael	X	
Rob Kondziolka		X
Martin Ochotorena	X	
Patrick Sanderson	X	
Larry Huff	X	

The motion was approved, as noted above. Leroy Michael requested that his memo regarding his vote, dated August 19, 2000, be included in the minutes. Each Board member gave a brief statement of explanation in addition to their vote. (A copy of Mr. Michael's memo, and Mr. Kondziolka's 8/29/2000 written statement are attached to these minutes.)

(Continued Discussion on Implementation Plan)

Pat Sanderson then explained that the Implementation Plan shows what will be done when the FERC filing is approved. With a staff of two, the focus will be ADR services, limited PM oversight, and billing functions. Depending on the DSTAR schedule and status, the Board will need to decide if and when to staff up under the Implementation Plan. The plan shows a two-person and a five-person budget, which shows what would be necessary in order to transition into a five-person ISA. The billing documents will have to be revised based on the decisions of this meeting. The debt repayment schedule is included and may be adjusted depending on FERC approval. The current plan is to keep a three-month amount of debt repayment to provide initial working capital. Pat committed to combine the two implementation plans discussed today, so it will be clear that there is one plan, to which the Board expressed general agreement.

There was a brief discussion as to what would happen if SRP decides not to sign the TP Agreement and what then happens regarding the promissory notes. The Board agreed there needs to be a discussion with SRP to determine their intentions regarding the agreements and note repayment.

X. Az ISA Staff Report

- a. Membership Report.** Pat Sanderson reviewed the current membership list. He will try to find out whether Enron will be continuing their memberships and whether they will be attending the annual meeting.
- b. Az ISA Annual Meeting.** Pat Sanderson advised the Board that he is coordinating the Az ISA Annual Members' meeting with the DSTAR annual meeting. They will both be held at the Doubletree Guest Suites, 320 North 44th Street, Phoenix. The Az ISA Annual Members' meeting will be Tuesday, September 12, 10:00 a.m. – 12:00 p.m. (registration from 10:00 – 1030 a.m.). A 27th Special Board meeting is scheduled for the same date and place at 1:30 p.m. The Regular Az ISA September Board meeting is scheduled as a conference call for Wednesday, September 13.

Steve Henry explained that if a Class does not have a quorum at the annual meeting and, therefore, cannot elect a Board member, then the Board could nominate and elect a new Board member at the following Board meeting.

- c. Financial Report.** Pat Sanderson reviewed the financial statements included in the Board package. Mr. Sanderson, with reference to the "2000 Budget/Cash Flow"

spreadsheet, pointed out that unless a tariff is established by the end of the year the Az ISA will not have sufficient funds to cover expenses. There was minor discussion.

XI. Other Business

There was no other business.

XII. Next Board Meeting

The next Board meeting is scheduled for Tuesday, September 12, at 1:30 p.m. at the Doubletree Guest Suites, 320 North 44th Street, Phoenix.

XIII. Adjourn

There being no further business, it was moved and seconded that the meeting be adjourned. The motion was approved unanimously, and the meeting was adjourned at 2:30 p.m.

Respectfully submitted,

Peggy A. Drumm, Acting Corporate Secretary

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APPROVED AGENDA

- I. Call to Order
- II. Establish Quorum
- III. Appoint Corporate Secretary
- IV. Approve Agenda **Approval Item**
- V. New Board Member **Approval Item**
- VI. Approve Minutes from 7/17/00 Meeting **Approval Item**
- VII. Judge Campbell Decision (TEP v. ACC) Report
- VIII. AZ ISA Risk Assessment – E&O Insurance
- IX. Az ISA FERC Filing and Implementation Plan **Approval Item**
- X. Az ISA Staff Report
 - a. Membership Report
 - b. Az ISA Annual Meeting
 - c. Financial Report
- XI. Other Business
- XII. Next Board Meeting
- XIII. Adjourn

(INSERT OF LEROY MICHAEL MEMO DATED 8/19/00)

MEMORANDUM

To: Executive Director and Board of Directors, Arizona Independent Scheduling Administrator

From: Leroy Michael Jr., Board Member, Aggregators Class

Subject: Board Meeting of August 21, 2000, Agenda Item IX, Approval of Az ISA FERC Filing and Implementation Plan

Date: August 19, 2000

I am submitting this memo in advance of the August 21, 2000 Board meeting, the draft agenda for which states that the Board is being asked to approve Agenda Item IX.

Despite my deep seated reservations about the subject of this action, I am prepared to vote for its approval on the basis stated herein.

I intend to attend the Board meeting in person. If this intention is realized, I will ask that this memo become part of the meeting record in explanation of my vote. Should I have to attend by teleconference, I request that the memo be added as an attachment to the minutes of the meeting by attachment thereto.

I have reviewed generally the material distributed to the Board for its use in making an informed decision whether to approve the AZ ISA FERC Filing and Implementation Plan.

Clearly, an extra-ordinary amount of work has going into the preparation of the material on the part of Pat, Peggy, Stu and Barbara, the stakeholder work groups, and all others involved. All are to be commended on putting together a package that my general reading suggests deals with a large number of previously expressed questions and concerns of various Board members.

Item IX is this most significant action to come before the AZ ISA Board since its inception. The Item IX vote of each Board member should be recorded in the minutes and each member given an opportunity to explain his or her vote for the record.

My deeply held reservations about the Az ISA FERC filing and Implementation Plan fall into two categories.

The first category of reservation relates to specifics regarding the determination and allocation of AZ ISA costs and the ability of the AZ ISA to fund and perform its responsibilities.

1. I am opposed to the pricing of electric services, or its constituent parts, in an unconstrained market where market manipulation together with an absence of workable mandatory mitigation measures assures continued resources scarcity

pricing. I believe the AZ ISA will promote this result as the worst case, or at best will be unable to mitigate it.¹

2. I am opposed to allocating the cost of competition, costs of the AZ ISA and others, to the customers that do not wish to avail themselves of competition, the so-called Standard Offer customers. If the customers electing to take competitive service are not paying its true cost, then the pricing signals theory of competition is rancid and spoiled to begin. I believe the allocation of costs of competition, including the risks of market manipulation, to the retail world under the Az ISA is an un-warranted subsidization of suppliers seeking rewards without having the responsibility for the concomitant risks.
3. I believe the AZ ISA is neither funded, nor will it be staffed, at levels that provide reasonable promise it will be able to perform its responsibilities.

The second category of reservation is more general, dealing with retail competition, per se.

1. I believe that over time electric supply at the level of necessity, (virtually all residential and small commercial service) under any competitive model, as the models will be designed and implemented in the greater Western world of commercial rivalry and advantage, will fail cost-benefit tests in their application. I know of no competitive model yet proposed, here or elsewhere, that provides practical assurance of a truly competitive electric service market; a market that reasonably assures the availability of adequate electric resources to meet normal demands, under predictable contingencies, and at affordable prices.
2. Electric Service at the level of necessity should never be the subject of pricing volatility by reason of suppliers maximizing gains, nor should it ever be separated from local accountability. I believe that the AZ ISA is without the means of assuring the absence of unconscionable pricing for a necessity and at the same time grants absolution from local accountability for the result.
3. Buying and paying for market price protection with dollars or in the costs of electric service denial, voluntary or in-voluntary, is not a remedy for those that must purchase the necessity level of electric service.

I have been told time and again that implementation of retail competition, as documented by the AZ ISA, was agreed upon early on by authorized representatives of the major interests affected: the suppliers, the large users and the small users, the transmitters, the distributors, and the regulators. It is said one should not question the fundamental premise but should have faith it will prove to be ok for all concerned in the long run.

¹ **The electric rate excursions in San Diego G&E service area for the home owner and small commercial account over the last 90 days are a stark portrayal of the economic extortion that can come from gaming the competitive pricing model.**

While I find little solace in this advice, I am prepared to cast my vote for Board approval of the FERC Filing and the Implementation Plan provided that the requisite majority of the Board votes for approval and their votes are a matter of record. I will do so with the great concern about the outcome of the action taken as applied to the electric users at the necessity level.

Leroy Michael Jr.
August 19, 2000.

(INSERT OF MR. ROBERT KONDZIOLKA'S 8/29/2000 WRITTEN STATEMENT)

Consistent with my letter to the Acting Executive Director and the Board in May, I still have two basic issues that have not been addressed. First, and this point has been expressed by other Board members, is that the structure of the proposed AzISA tariff is fundamentally discriminatory against the Standard Offer customer class. The vast majority of the cost for the AzISA should not be paid by the one class that chooses not to participate in a direct retail access program. Instead, the tariff should focus on a rate design having cost associated with those classes that choose alternate service providers or will be offered the most choices. Competition should be able to support itself and not be dependent on this type of socializing. The second item is I had requested the AzISA to provide identifiable cost/benefits. No identifiable benefits have been provided. Those burdened with any additional cost should have some realistic expectation that they will receive some identifiable benefit in exchange for being saddled with a cost.

I have also read Leroy Michael's memo of 8/19/00 and concur with the points made by Mr. Michael, but I believe the Board has the responsibility to take action and correct the deficiencies described before approving to move forward.

Even though I do not vote to approve, I would like to compliment Pat Sanderson, Peggy Drumm, Steve Henry, FERC Counsel, and the work groups for their diligent efforts in trying to address the many issues raised by the Board. The package before the Board is substantially improved compared to the original package submitted.

END OF STATEMENT