

99 FERC ¶ 61, 038  
UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;  
William L. Massey, Linda Breathitt,  
and Nora Mead Brownell.

Arizona Independent Scheduling Administrator  
Association

Docket No. ER02-348-000

ORDER ACCEPTING TARIFF AMENDMENT

(Issued April 11, 2002)

This order accepts an amendment filed by the Arizona Independent Scheduling Administrator Association (AZ ISA) to the Protocols Manual section of its Open Access Transmission Tariff (OATT). This amendment would extend the term of an existing tariff provision that provides for the aggregation of sufficient transmission capacity necessary for implementation of retail choice in Arizona. This order is in the public interest because it will facilitate the implementation of retail electric competition in Arizona.

Background

In the Commission's order issued November 30, 2000 (November 30 Order),<sup>1</sup> the Commission accepted in part and rejected in part tariffs and related filings made by the AZ ISA, Arizona Public Service Company (Arizona Public Service), and Tucson Electric Power Company (Tucson) to facilitate the implementation of retail electric competition in Arizona. The Commission accepted, among other things, a Protocols Manual that governs the temporary allocation of transmission rights.

Specifically, Protocol V of the AZ ISA Protocols Manual provides for network transmission capacity previously used in serving native load to be made available for

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<sup>1</sup>Arizona Independent Scheduling Administrator Association, *et al.*, 93 FERC ¶ 61,231 (2000) (November 30 Order). A compliance filing was accepted by delegated Letter Order on July 10, 2001.

retail access. Under the initial apportionment, the two major transmission providers in the state of Arizona, Arizona Public Service and Tucson made available 200 MW and 80 MW, respectively, on specified transmission paths that are presumed to be most likely used for retail access.

In the November 30 Order, the Commission found these allocations to be appropriate as a temporary mechanism with the expectation that the allocations would be superseded by the earlier of Desert Star becoming operational or an auction of transmission capacity contemplated by a proposed Phase II of the AZ ISA program. Accordingly, the Commission permitted the allocations to be effective only through December 15, 2001, the anticipated operational date of Desert Star.

### Instant Filing

On November 15, 2001, the AZ ISA filed a proposed extension of the mechanism whereby scheduling coordinators<sup>2</sup> continue to have transmission capacity allocated to serve retail access customers.<sup>3</sup> The AZ ISA states that, at the time of filing, the Desert Star RTO initiative is in the process of disbanding and the AZ ISA has not yet initiated Phase II operations. The AZ ISA further states that it does not appear that any RTO will be providing service in Arizona prior to 2004. Therefore, the AZ ISA states that extension of the existing temporary allocation mechanism will continue to promote retail competition in Arizona. The AZ ISA proposes to extend the allocation mechanism until the earlier of (1) the termination of services under the AZ ISA Tariff or (2) the operational date of Regional Transmission Organization (RTO) that serves the retail load located in the service territories to which the Protocols Manual applies. The AZ ISA requests an effective date of December 15, 2001 (expiration date of the initial allocation). The AZ ISA states that this effective date will allow the existing transmission allocation mechanism to continue uninterrupted and thereby, further retail competition in Arizona.

The AZ ISA states that during the period December 1999 through the first half of 2001, 51 MW of the initial allocation of capacity was subscribed in Arizona Public

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<sup>2</sup>There are two classes of scheduling coordinators: Standard Offer and Competitive. Competitive scheduling coordinators schedule the loads for retail native load customers who have switched suppliers under Arizona's retail choice program. Standard Offer scheduling coordinators are the incumbent host utilities who schedule the loads of retail customers who have not elected to purchase power from another supplier.

<sup>3</sup>On February 14, 2002, the AZ ISA amended its filing in response to a deficiency letter issued on January 4, 2002 by the Director, Division of Tariffs and Rates - West requesting additional information on the AZ ISA's proposal.

Service's service territory. The AZ ISA states that Tucson, during the first half of 2000, had 7 MW subscribed. Subsequently, unbundled retail service declined to approximately 26 MW in the second half of 2000, and approximately 6 MW in the first half of 2001.<sup>4</sup>

In its amendment, the AZ ISA states that the situation in the California market caused great increases in wholesale energy prices in the West by the middle of 2000. The AZ ISA states that due to this situation, it became less attractive for customers to avail themselves of direct access service as the generation component of their competitive bill would exceed the prices offered by Arizona Public Service and Tucson under their Standard Offer service. The AZ ISA states that, as a result, no retail direct access service was provided using the temporary allocation mechanism during the balance of 2001 in either Arizona Public Service's or Tucson's service territories.

The AZ ISA states that it believes that the outlook for utilization of the temporary allocation mechanism in 2002 looks more promising than 2001. The AZ ISA states that, notably, energy prices in the southwest are trending downward. The AZ ISA states that the Protocols Manual's temporary allocation mechanism successfully facilitated retail direct access to competitive generation in Arizona in 1999 and early 2000, when energy prices were at levels more consistent with historic norms. The AZ ISA states that it believes that it is in the public interest to permit this proven, albeit temporary mechanism to remain in place.

Notice of the filing was published in the Federal Register,<sup>5</sup> with comments, protests, or motions to intervene due on or before December 6, 2001.

On December 6, 2001, the Arizona Districts filed a motion to intervene and to reject, and alternative request for evidentiary hearing.<sup>6</sup> The Arizona Districts states that

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<sup>4</sup>The AZ ISA states that no competitive retail services have been provided since that time. The AZ ISA states that there have been approximately 300 competitive customers in Arizona Public Service's territory. Also, according to a May 9, 2001 report filed by Tucson with the Arizona Commission, there have been 19 competitive retail customers in Tucson's service territory.

<sup>5</sup>66 Fed. Reg. 59,013 (2001).

<sup>6</sup>Arizona Districts consists of: Aguila Irrigation District; Ak-Chin Indian Community Utility Authority; Arizona Power Authority; Buckeye Water Conservation & Drainage District; Central Arizona Water Conservation District; Electrical District No. 1, Pinal County; Electrical District No. 2, Pinal County; Electrical District No. 3, Pinal County; Electrical District No. 6, Pinal County; Electrical District No. 7, Maricopa

the AZ ISA's proposal to extend the temporary allocation is inappropriate in light of the generally acknowledged need to revisit and revise the existing and unsuccessful structures intended to foster retail competition in Arizona.<sup>7</sup> Additionally, the Arizona Districts argue that in a proceeding before the Arizona Commission, Arizona Public Service is pursuing a proposal by which it will lock retail customers into a long-term power supply relationship with its holding company affiliate Pinnacle West Capital Corporation. The Arizona Districts argues that Arizona Public Service's proposal will tie up a significant amount of transmission capacity on the Arizona Public Service system for the exclusive benefit of Arizona Public Service and its affiliate. The Arizona Districts also argues that Arizona Public Service's proposal has the potential to freeze third parties out of the opportunity for access to Arizona Public Service's transmission system in favor of Arizona Public Service's arrangements with its affiliate. The Arizona Districts state that the public interest would be better served in the circumstances of this case by allowing the temporary allocation to expire as previously scheduled because extending the allocation which would likely complicate the Arizona Commission's evaluation of its retail competition initiative. Accordingly, the Arizona Districts request that the Commission either reject the AZ ISA's filing or, alternatively, set the extension for hearing to determine the impact of the extension on the wholesale power market in Arizona.

Notice of the amended filing was published in the Federal Register,<sup>8</sup> with comments, protests, or motions to intervene due on or before March 6, 2002. No comments were filed.

On December 21, 2001, Pinnacle West Companies (Pinnacle West) filed an answer to the Arizona Districts.

On December 21, 2001, the AZ ISA filed an answer to Arizona Districts. The AZ ISA states that the Arizona Districts' claim that the extension of the temporary allocation will tie up transmission capacity for the exclusive benefit of Arizona Public Service and Pinnacle West is without merit. The AZ ISA explains that competitive scheduling

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County; Electrical District No. 8, Maricopa County; Harquahala Valley Power District; Maricopa County Municipal Water Conservation District No. 1; McMullen Valley Water Conservation & Drainage District; City of Mesa; Roosevelt Irrigation District; Town of Thatcher; and Tonopah Irrigation Distict.

<sup>7</sup>The Arizona Districts states that the Arizona Corporation Commission (Arizona Commission) is recommending a sweeping and thorough reassessment of the instrumentalities initially put into place to foster the emergence of retail competition in Arizona, including the AZ ISA. Arizona Districts at 8.

<sup>8</sup>67 Fed. Reg. 8796 (2001).

coordinators can include all energy marketers, not just those affiliated with Arizona Public Service. Thus, the AZ ISA states that the Arizona Districts' members have the ability to become scheduling coordinators and obtain a portion of this transmission capacity. Furthermore, the AZ ISA states that any concerns that the Arizona Districts has with the implications of Arizona Public Service's proposed long-term power supply agreement should be raised by the Arizona Districts when Arizona Public Service files this contract with the Commission for approval under section 205 of the Federal Power Act.

### Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,<sup>9</sup> the timely, unopposed motion to intervene of Arizona Districts serves to make it a party to this proceeding. Notwithstanding our general rule not to allow an answer to a protest,<sup>10</sup> we will permit the AZ ISA's December 21 Answer, because it assisted us in the decision-making process. We will, however, reject the answer filed by Pinnacle West.

We will accept the AZ ISA's proposal to extend the temporary allocation mechanism to be effective December 15, 2001, as requested. We find that extending the temporary allocation mechanism will continue to foster retail competition. Accordingly, we will accept the AZ ISA's proposed amendment to extend this temporary allocation mechanism until the earlier of the termination of services under the AZ ISA Tariff or the operational date of a Regional Transmission Organization that serves the retail load in the service territories to which the Protocols Manual applies.

We disagree with the Arizona Districts that rejection of the proposed extension of the allocation mechanism is appropriate in light of the current state of retail choice in Arizona. While the retail choice program may not be as expansive as once envisioned, the AZ ISA is the organization designated to facilitate such retail choice and we have no basis to disagree with the proposition that the extension is appropriate to foster further retail access.

Consistent with our November 30 Order, we find that the temporary transmission capacity allocations do not result in a reduction to the amount of total transmission capability available, but simply reflect a reallocation of the existing amount of transmission capacity previously used to serve retail load. We also find that the Arizona Districts has not made a showing that demonstrates the need for the extension to be set

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<sup>9</sup>18 C.F.R. § 385.214 (2001).

<sup>10</sup>18 C.F.R. § 385.213 (2001).

for hearing. Arizona Districts has not raised any material issues of fact and has failed to demonstrate any nexus between Arizona Public Service's proposed long-term power supply agreement (currently pending before the Arizona Commission) and an extension of the temporary allocation mechanism. Arizona Districts also has failed to demonstrate any adverse impacts that might result from granting the extension. Finally, the Arizona Districts' concerns with Arizona Public Service's proposal before the Arizona Commission to lock its retail customers into a long-term power supply relationship with its affiliate Pinnacle West are premature.

The Commission orders:

(A) The AZ ISA's amendment is hereby accepted for filing, to become effective on December 15, 2001, as discussed in the body of this order.

(B) The AZ ISA is hereby informed of the rate schedule designations shown on the attachment to this order.

By the Commission.

( S E A L )

Linwood A. Watson, Jr.,  
Deputy Secretary.

**ATTACHMENT**

Arizona Independent Scheduling Administrator Association  
Docket No. ER02-348-000  
Rate Schedule Designations

Effective Date: December 15, 2001

<u>Designation</u>	<u>Description</u>
First Revised Sheet No. 27 to FERC Electric Tariff, Original Volume No. 1	Amended tariff sheet