AN ACT

REPEALING SECTION 9-520, ARIZONA REVISED STATUTES; AMENDING SECTIONS 10-2057, 10-2081 AND 10-2127, ARIZONA REVISED STATUTES; REPEALING SECTIONS 30-801, 30-802, 30-803 AND 30-805, ARIZONA REVISED STATUTES; AMENDING TITLE 30, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 30-801, 30-803 AND 30-805; REPEALING SECTIONS 30-806, 30-807 AND 30-808, ARIZONA REVISED STATUTES; PROVIDING FOR RENUMBERING; AMENDING SECTIONS 30-807, 30-808 AND 30-809, ARIZONA REVISED STATUTES, AS RENUMBERED; AMENDING TITLE 30, CHAPTER 6, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 30-810 AND 30-811; REPEALING SECTIONS 30-813 AND 40-113, ARIZONA REVISED STATUTES; AMENDING SECTIONS 40-201 AND 40-202, ARIZONA REVISED STATUTES; REPEALING SECTIONS 40-207 AND 40-208, ARIZONA REVISED STATUTES; AMENDING SECTION 40-286, ARIZONA REVISED STATUTES; REPEALING LAWS 1998, CHAPTER 209, SECTION 35; RELATING TO ELECTRIC ENERGY.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Repeal

Section 9-520, Arizona Revised Statutes, is repealed.

Sec. 2. Section 10-2057, Arizona Revised Statutes, is amended to read:

10-2057. Powers of electric cooperative

A. A cooperative organized under this article may:
1. Sue and be sued in its corporate name.
2. Have perpetual existence.
3. Adopt and alter a corporate seal.
4. To compete more effectively with other entities in the electric energy market. Engage in the generation, manufacture, purchase, acquisition, accumulation, transmission, marketing, sale, distribution, supply and disposition of electric energy, either individually or jointly in collaboration with other corporations that have loans made or guaranteed by the United States through the administrator of the rural utilities service or that are nonprofit members of the corporation entities.
5. Assist persons to whom electric energy is or will be supplied by the cooperative in wiring their premises and in acquiring and installing electrical and plumbing appliances, equipment, fixtures and apparatus by means of financing.
6. Assist persons to whom electric energy is or will be supplied by the cooperative in constructing, equipping, maintaining and operating electric cold storage or processing plants by means of financing.
7. Construct, purchase, lease or otherwise acquire, and equip, maintain and operate, and sell, assign, convey, lease, mortgage, pledge or otherwise dispose of or encumber electric transmission and distribution lines or systems, electric generating plants, lands, buildings, structures, dams, plants and equipment, and any other real or personal property, tangible or intangible, that is deemed necessary, convenient or appropriate to accomplish any purpose for which the cooperative is organized or that it elects to undertake.
8. Purchase, lease or otherwise acquire, and use, and exercise and sell, assign, convey, mortgage, pledge or otherwise dispose of or encumber, franchises, rights, privileges, licenses and easements.
9. Borrow money and otherwise contract indebtedness, and issue notes, bonds and other evidences of indebtedness, and secure the payment thereof by mortgage, pledge or deed of trust of, or any other encumbrance on, any or all of its presently owned or after-acquired real or personal property, assets, franchises or revenues.
10. Construct, maintain and operate electric transmission and distribution lines along, on, under and across publicly owned lands and public thoroughfares, including all roads, highways, streets, alleys, bridges and causeways, and acquire for such purposes franchises, licenses,
permits, easements, rights-of-way and all similar rights and privileges relating to such purposes.

11. Exercise the power of eminent domain in the manner and to the extent provided by the laws of this state for the exercise of such power by other corporations constructing or operating electric transmission and distribution lines or systems.

12. Become a member of other cooperatives or corporations or own stock in those cooperatives or corporations or otherwise financially participate and invest in those cooperatives or corporations.

13. Conduct its business and exercise its powers within or outside this state.


15. Do and perform other acts and things and have and exercise other powers that may be necessary, convenient or appropriate to accomplish the purpose for which the cooperative is organized or to carry out its business and affairs.

16. Subject to any limitation imposed by federal law, invest its own monies, make loans or guarantees or participate in rural community infrastructure projects, in job creation activities and in other activities to promote economic development in rural areas if the rural development activities are approved by the rural utilities service.

17. Directly or through an affiliate, construct, operate, maintain, lease and license fiber-optic cables and other facilities to provide broadband service over, under, across, on or along real property, personal property, rights-of-way, easements and licenses and other property rights that are owned, held or used by the cooperative, including easement or other property rights owned, held or used by the cooperative to provide electricity or other services.

B. The authority granted in subsection A, paragraph 16 OF THIS SECTION shall be used only for economic development in rural areas, and the electric cooperative shall not use monies intended for rural economic development to purchase or acquire electrical works or electrical facilities, whether real or personal property, or both, by the exercise of the right of eminent domain or condemnation nor shall such monies be used to purchase, construct, lease or acquire any electrical works or electrical facilities or make any extensions or additions designed to serve areas or territories already being lawfully served. FOR THE PURPOSES OF subsection A, paragraph 16 OF THIS SECTION and this subsection:

1. "Economic development" includes project feasibility studies, start-up costs, incubator projects and other reasonable expenses for the purpose of fostering rural economic development.

2. "Invest" means to commit monies to earn a financial return on assets that are not expected to be used or useful in furnishing electric service. The total amount that the electric cooperative invests, loans or
uses as a guarantee is limited to those monies authorized under federal
law for rural development programs.

3. "Job creation activities" includes providing technical,
financial and managerial assistance.

4. "Rural community infrastructure projects" includes water and
waste systems and garbage collection services.

C. Beginning on January 1, 1999, The indemnification of members,
directors, officers, employees and agents of a cooperative shall be in
accordance with chapter 31, article 5 of this title.

Sec. 3. Section 10-2081, Arizona Revised Statutes, is amended to
read:

10-2081. Exemption from antitrust statutes

The provisions of Title 44, chapter 10, article 1 do DOES not apply
to any conduct or activity of a cooperative organized pursuant to this
article, if the conduct or activity is approved by a statute of this state
or of the United States or by the corporation commission or an
administrative agency of this state or of the United States that has
jurisdiction of the subject matter. This section does not apply to the
provision of competitive electric generation service and other services.

Sec. 4. Section 10-2127, Arizona Revised Statutes, is amended to
read:

10-2127. Powers of a generation and transmission cooperative

A. A generation and transmission cooperative may:

1. Sue and be sued and complain and defend in its corporate name.

2. Have perpetual existence by its corporate name.

3. Adopt a corporate seal and alter the seal at its pleasure, and
use the seal by causing it, or a facsimile of it, to be impressed or
affixed or in any other manner reproduced, but failure to have or to affix
a corporate seal does not affect the validity of any instrument or any
action taken in pursuance of or in reliance on the seal.

4. Own, operate, lease or control plants, property and facilities
for the generation or transmission, sale or furnishing of electricity for
light, heat or power or other uses, and generate, manufacture, purchase,
acquire, accumulate and transmit electric energy.

5. To compete more effectively with other entities in the electric
energy market. Engage in, individually or jointly in collaboration with
other corporations that have loans made or guaranteed by the United States
through the administrator of the rural utilities service or that are
nonprofit members of the corporation ENTITIES, the acquisition, purchase,
marketing, sale, supply and disposition of electric energy to or for its
members and persons, entities, governmental agencies and political
subdivisions and other electric utilities.

6. Purchase, take, receive, subscribe for or otherwise acquire,
own, hold, vote, exercise rights arising out of the ownership or
possession, use, employ, sell, assign, transfer, convey, mortgage, lend,
pledge, hypothecate or otherwise use and deal in and with shares, rights, memberships or other interests in, or notes, bonds, debentures, mortgages, passbooks, certificates of deposit or other obligations of other domestic or foreign corporations, associations, partnerships, limited partnerships or individuals, or direct or indirect obligations or securities of individuals, associations, cooperatives, partnerships, corporations or of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

7. Construct, purchase, take, receive, lease as lessee or otherwise acquire, and own, hold, improve, use, equip, maintain and operate, and sell, assign, transfer, convey, exchange, lease as lessor, mortgage, pledge or otherwise dispose of or encumber electric transmission lines and systems, electric generating plants, lands, buildings, structures, dams, plants and equipment, and any and all kinds and classes of real or personal property, tangible or intangible, that are deemed necessary, convenient or appropriate to accomplish the purpose for which the generation and transmission cooperative is organized or that it elects to undertake.

8. Purchase or otherwise acquire, and own, hold, use and exercise and sell, assign, transfer, convey, mortgage, pledge, hypothecate or otherwise dispose of or encumber franchises, rights, privileges, licenses, rights-of-way and easements.

9. Make contracts and guarantees and incur liabilities, borrow money and otherwise contract indebtedness, and issue its notes, bonds and other evidence of indebtedness, and secure the payment of any indebtedness by mortgage, pledge, deed of trust, assignment, security agreement or any other hypothecation or encumbrance on any or all of its real or personal property, assets, franchises, revenue or income.

10. Construct, maintain and operate electric transmission lines along, on, under and across publicly owned lands and public thoroughfares, including all roads, highways, streets, alleys, bridges and causeways, and acquire for such purposes franchises, licenses, permits, easements, rights-of-way and all similar rights and privileges relating to such purposes.

11. Exercise the power of eminent domain in the manner and to the extent provided by the laws of this state for the exercise of such power by other corporations constructing or operating electric transmission lines or systems.

12. Become a member of other cooperative organizations or corporations or own stock in or otherwise financially participate and invest in those other organizations or corporations.

13. Conduct its business, carry on its operations, have offices and exercise the powers granted by this article in any state, territory, district or possession of the United States or in any foreign country.

14. Adopt, amend and repeal bylaws consistent with this article.
15. Cease its corporate activities and surrender its corporate franchise.
16. Do and perform other acts and things, and have and exercise other powers, that may be necessary, convenient or appropriate to accomplish the purpose for which the generation and transmission cooperative is organized or to carry out its business and affairs.
17. Directly or through an affiliate, construct, operate, maintain, lease and license fiber-optic cables and other facilities to provide broadband service over, under, across, on or along real property, personal property, rights-of-way, easements and licenses and other property rights owned, held or used by the generation and transmission cooperative, including easement or other property rights that are owned, held or used by the cooperative to provide electricity or other services.

B. Beginning on January 1, 1999. The indemnification of members, directors, officers, employees and agents of a cooperative shall be in accordance with chapter 31, article 5 of this title.

Sec. 5. Heading change
The chapter heading of title 30, chapter 6, Arizona Revised Statutes, is changed from "ELECTRIC POWER COMPETITION" to "ELECTRIC ENERGY RELIABILITY".

Sec. 6. Repeal
Sections 30-801, 30-802, 30-803 and 30-805, Arizona Revised Statutes, are repealed.

Sec. 7. Title 30, chapter 6, article 1, Arizona Revised Statutes, is amended by adding new sections 30-801, 30-803 and 30-805, to read:

30-801. Definitions
IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "ELECTRICITY" OR "ELECTRIC SERVICE" MEANS ELECTRIC ENERGY, ELECTRIC CAPACITY OR ELECTRIC CAPACITY AND ENERGY.
2. "PUBLIC POWER ENTITY":
   (a) MEANS ANY MUNICIPAL CORPORATION, CITY, TOWN OR OTHER POLITICAL SUBDIVISION THAT IS ORGANIZED UNDER STATE LAW, THAT GENERATES, TRANSMITS, DISTRIBUTES OR OTHERWISE PROVIDES ELECTRICITY AND THAT IS NOT A PUBLIC SERVICE CORPORATION.
   (b) DOES NOT INCLUDE:
   (i) A CITY OR TOWN WITH A POPULATION OF LESS THAN SEVENTY-FIVE THOUSAND PERSONS.
   (ii) A POWER DISTRICT, ELECTRICAL DISTRICT, IRRIGATION AND WATER CONSERVATION DISTRICT OR MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 11, 12, 19 OR 22.
   (iii) THE ARIZONA POWER AUTHORITY.
3. "RETAIL ELECTRIC CUSTOMER" MEANS A PERSON THAT PURCHASES ELECTRICITY FOR THAT PERSON'S OWN USE, INCLUDING USE IN THAT PERSON'S TRADE OR BUSINESS, AND NOT FOR RESALE, REDISTRIBUTION OR RETRANSMISSION.
4. "SERVICE TERRITORY" MEANS THE GEOGRAPHIC AREA IN WHICH A PUBLIC POWER ENTITY OR PUBLIC SERVICE CORPORATION OWNS, OPERATES, CONTROLS OR MAINTAINS EITHER ELECTRIC DISTRIBUTION FACILITIES OR NATURAL GAS DISTRIBUTION FACILITIES AND THAT ADDITIONAL AREA IN WHICH THE PUBLIC POWER ENTITY OR PUBLIC SERVICE CORPORATION HAS AGREED TO EXTEND ELECTRIC DISTRIBUTION FACILITIES OR NATURAL GAS DISTRIBUTION FACILITIES, WHETHER ESTABLISHED BY A CERTIFICATE OF CONVENIENCE AND NECESSITY, BY OFFICIAL ACTION BY A PUBLIC POWER ENTITY OR BY CONTRACT OR AGREEMENT.

30-803. Consumer protection; unfair practices; policies; ombudsman; cities and towns

A. A PUBLIC POWER ENTITY SHALL ESTABLISH AN OMBUDSMAN OFFICE TO INVESTIGATE RETAIL ELECTRIC CUSTOMER SERVICE COMPLAINTS AND ADOPT RULES AND PROCEDURES TO PROTECT THE PUBLIC AGAINST DECEPTIVE, UNFAIR AND ABUSIVE BUSINESS PRACTICES. THE RULES AND PROCEDURES ADOPTED BY THE PUBLIC POWER ENTITY SHALL ADDRESS AT LEAST:

1. DECEPTIVE, UNFAIR AND ABUSIVE BUSINESS PRACTICES, INCLUDING DEPOSIT REQUIREMENTS AND RECONNECTION FEES.
2. INTRUSIVE AND ABUSIVE MARKETING PRACTICES.
3. DECEPTIVE OR UNTRUE ADVERTISING PRACTICES.
4. PRACTICES PROHIBITED UNDER SECTION 30-806, SUBSECTION C.


C. THE PUBLIC POWER ENTITY SHALL MAKE AVAILABLE TO ANY REQUESTING PARTY ALL INFORMATION NECESSARY TO DEMONSTRATE COMPLIANCE WITH THIS SECTION.

D. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A PUBLIC POWER ENTITY THAT IS A CITY OR TOWN MAY PROVIDE FOR AN ALTERNATIVE STRUCTURE TO ADDRESS CUSTOMER SERVICE AND CONSUMER PROTECTION ISSUES.

30-805. Confidential customer information; protection

A. NOTWITHSTANDING ANY OTHER LAW, A PUBLIC POWER ENTITY MAY NOT RELEASE CUSTOMER-SPECIFIC INFORMATION WITHOUT SPECIFIC PRIOR WRITTEN CUSTOMER AUTHORIZATION UNLESS THE INFORMATION IS REASONABLY REQUIRED FOR LEGITIMATE ACCOUNT COLLECTION ACTIVITIES OR CREDIT ANALYSIS ACTIVITIES OR WHEN SUCH INFORMATION AIDS IN PROVIDING SAFE AND RELIABLE SERVICE TO THE CUSTOMER OR UNLESS OTHERWISE PROVIDED BY COURT ORDER. A PUBLIC POWER ENTITY SHALL ADOPT REASONABLE RULES AND PROCEDURES TO ENSURE CONFIDENTIALITY.

B. NOTWITHSTANDING ANY OTHER LAW, RECORDS AND PROCEEDINGS RELATING TO COMPETITIVE ACTIVITY, INCLUDING TRADE SECRETS OR PRIVILEGED OR CONFIDENTIAL COMMERCIAL OR FINANCIAL INFORMATION, IF DISCLOSURE OF THE
INFORMATION COULD GIVE A MATERIAL ADVANTAGE TO ANOTHER ENTITY, ARE NOT OPEN TO PUBLIC INSPECTION AND MAY NOT BE MADE PUBLIC EXCEPT BY ORDER OF THE PUBLIC POWER ENTITY’S GOVERNING BODY. THE INFORMATION PROTECTED AS CONFIDENTIAL UNDER THIS SECTION IS ANY INFORMATION THAT IS SIMILAR TO THE INFORMATION THAT WOULD BE CONFIDENTIAL UNDER SECTION 40-204 IF REPORTED BY A PUBLIC SERVICE CORPORATION TO THE ARIZONA CORPORATION COMMISSION.

Sec. 8. Repeal
Sections 30-806, 30-807 and 30-808, Arizona Revised Statutes, are repealed.

Sec. 9. Renumber
Section 30-809, Arizona Revised Statutes, is renumbered as section 30-806.

Sec. 10. Section 30-810, Arizona Revised Statutes, is renumbered as section 30-807, and as so renumbered, is amended to read:

30-807. Application for rehearing; effect; decision
A. After any final order or decision is made by the governing body of the public power entity regarding terms and conditions for customer selection, complaint resolution, consumer protection, stranded costs, transmission and distribution service rates and charges, system benefit charges and other related matters as determined in the reasonable discretion of the governing body of the public power entity, or regarding compliance with an intergovernmental agreement made under the provisions of this chapter IN THE COURSE OF A RATEMAKING OR RATE DESIGN PROCESS, any party to the action or proceeding PERSON or the attorney general on behalf of the THIS state may apply for a rehearing of any matter determined in the action or proceeding and REGARDING THE RATEMAKING OR RATE DESIGN PROCESS specified in the application for rehearing within twenty days of AFTER entry of the order or decision. Unless otherwise ordered, the filing of the application does not stay the decision of the governing body of the public power entity. If the governing body of the public power entity does not grant the application within twenty days, it is deemed denied. If the governing body of the public power entity grants the application, WITHIN TWENTY DAYS AFTER GRANTING THE APPLICATION, the governing body of the public power entity shall promptly hear the matter and make a determination within twenty days after final submission.

B. No A claim arising from any order or decision of the governing body of the public power entity regarding terms and conditions for customer selection, complaint resolution, consumer protection, stranded costs, transmission and distribution service rates and charges, system benefit charges and other related matters as determined in the reasonable discretion of the governing body of the public power entity or regarding compliance with an intergovernmental agreement made under the provision of this chapter MADE IN THE COURSE OF A RATEMAKING OR RATE DESIGN PROCESS shall NOT accrue in any court to any party or the THIS state unless the party or the THIS state makes, before the effective date of the order or
decision, application APPLIES to the governing body of the public power entity for a rehearing.

C. The application shall set forth specifically the grounds on which it is based and a person or the state shall not in any court urge or rely on any ground not set forth in the application.

D. An application for rehearing does not excuse any person from complying with and obeying any order or decision or any requirements of any order or decision of the governing body of the public power entity, or operate in any manner to stay or postpone the enforcement of a decision, except in cases and on terms as the governing body of the public entity by order directs.

E. If, after a rehearing and a consideration of all the facts, including those arising since the making of the order or decision, the governing body of the public power entity finds that the original order or decision or any part of the original order or decision is in any respect unjust or unwarranted or should be changed the governing body of the public power entity may abrogate, change or modify the order or decision, and the order or decision has the same force and effect as an original order or decision, but does not affect any right or the enforcement of any right arising from or by virtue of the original order or decision, unless decided by the governing body of the public power entity.

Sec. 11. Section 30-811, Arizona Revised Statutes, is renumbered as section 30-808, and as so renumbered, is amended to read:

30-808. Action to set aside or modify certain orders or decisions of public power entities; filing; limitation; superior court

A. Any party in interest, or the attorney general on behalf of the state, who is dissatisfied with an order or decision of the governing body of the public power entity regarding terms and conditions for customer selection, complaint resolution, consumer protection, stranded costs, transmission service rates and charges, distribution service rates and charges, system benefit charges and other related matters as determined in the reasonable discretion of the governing body of the public power entity or regarding compliance with an intergovernmental agreement made under the provisions of this chapter, may MADE IN THE COURSE OF A RATEMAKING OR RATE DESIGN PROCESS, within thirty days after a rehearing is denied or granted DEEMED DENIED, MAY commence an action in superior court in the county in which the governing body of the public power entity has its office, against the governing body of the public power entity as defendant, to vacate, set aside, affirm IN WHOLE OR in part, reverse in part or remand with instructions to the governing body of the public power entity the order or decision on the grounds that the valuation, rate, joint rate, toll, fare, charge or finding, rule, classification or schedule, practice, demand, requirement, act or service provided in the order or decision is unlawful or that any rule, practice,
act or service provided in the order or decision is unlawful, or that any rule, practice, act or service provided in the order or decision is unreasonable IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE OR THAT THE GOVERNING BODY ABUSED ITS DISCRETION. The answer of the governing body of the public power entity shall be served and filed within twenty days after service of the complaint, AND the action shall be at issue and ready for trial on ten days' notice to either party. The action shall be tried and determined as other civil actions except as provided in this section.

B. If the governing body of the public power entity rescinds the order or decision complained of, the action shall be dismissed and if the governing body of the public power entity alters, modifies or amends the order or decision, the altered, modified or amended order replaces the original order complained of and judgment shall be given on the order as though made by the governing body of the public power entity in the first instance.

C. Except as otherwise prescribed by this section, the trial shall conform as nearly as possible to other trials in civil actions. Judgment shall be given affirming, modifying or setting aside the original or amended order TO VACATE, SET ASIDE, AFFIRM IN WHOLE OR IN PART, REVERSE IN PART OR REMAND WITH INSTRUCTIONS TO THE GOVERNING BODY OF THE PUBLIC POWER ENTITY THE ORDER OR DECISION ON THE GROUNDS THAT THE ORDER OR DECISION IS UNLAWFUL OR IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE OR THAT THE GOVERNING BODY ABUSED ITS DISCRETION.

D. Either party to the action, or the attorney general on behalf of the THIS state, within thirty days after the judgment of the superior court is given may appeal to the court of appeals.

E. In all trials, actions and proceedings the burden of proof is on the party adverse to the governing body of the public power entity or seeking to vacate or set aside any decision or order of the governing body of the public power entity to show that it is unlawful, that it is not supported by substantial evidence or that the governing body of the public power entity abused its discretion.

F. Except as provided by this section no court of this state shall have jurisdiction to enjoin, restrain, suspend, delay or review any order or decision of the governing body of the public power entity or to enjoin, restrain or interfere with the governing body of the public power entity in the performance of its official duties and the rules, orders or decrees fixed by the governing body of the public power entity remain in force pending the decision of the courts. A writ of mandamus may be issued from the supreme court to the governing body of the public power entity in cases authorized by law.
Sec. 12. Section 30-812, Arizona Revised Statutes, is renumbered as
section 30-809, and as so renumbered, is amended to read:

30-809. Action to set aside or modify certain governing body
of public power entity orders or decisions;
limitation; court of appeals

A. The attorney general on behalf of the THIS state or any party to
a proceeding before the governing body of the public power entity PERSON
that is dissatisfied with any order or decision of the governing body of
the public power entity involving public power entities and relating to
rate making or rate design pursuant to section 30-802 MADE IN THE COURSE
OF A RATEMAKING OR RATE DESIGN PROCESS may file, within thirty days after
a rehearing is denied or granted DEEMED DENIED, a notice of appeal in the
court of appeals to vacate, set aside, affirm IN WHOLE OR in part, reverse
in part or remand with instructions to the governing body of the public
power entity the order or decision if the court of appeals determines that
it is unlawful, that it is not supported by substantial evidence or that
the governing body abused its discretion.

B. If the governing body of the public power entity rescinds the
order complained of, the action shall be dismissed, and if the governing
body of the public power entity alters, modifies or amends the order, the
altered, modified or amended order shall replace the original order
complained of, and judgment shall be given on the order as made by the
governing body of the public power entity in the first instance.

C. The appellate procedure shall be pursuant to rules adopted by
the supreme court. The rules shall conform, as nearly as possible, to the
manner in which other appeals are undertaken including indicating the
content of the record on review, the briefs to be filed and the time and
manner for filing the briefs, record and other documents.

D. Any party to the action, or the attorney general on behalf of
the THIS state, may appeal to the supreme court as provided by law.

E. In all appeals taken pursuant to this section, the party adverse
to the governing body of the public power entity or the party seeking to
vacate or set aside an order of the governing body of the public power
entity must show that the order or decision is unlawful, that it is not
supported by substantial evidence or that the governing body abused its
discretion.

F. Except as provided by this section, a court of this state does
not have jurisdiction to enjoin, restrain, suspend, delay or review any
order or decision of the governing body of the public power entity
involving any public power entity and relating to rate making MADE IN THE
COURSE OF A RATEMAKING or rate design PROCESS or to enjoin, restrain or
interfere with the governing body of the public power entity in the
performance of its official duties and the rules, orders or decrees fixed
by the governing body of the public power entity remain in force pending
the decision of the courts, but a writ of mandamus shall lie from the
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supreme court to the governing body of the public power entity in cases
authorized by law.

Sec. 13. Title 30, chapter 6, article 1, Arizona Revised Statutes,
is amended by adding new sections 30-810 and 30-811, to read:

30-810. Buy-through program; terms, conditions, limitations;
definition
A. ON OR BEFORE JANUARY 1, 2024, A PUBLIC POWER ENTITY THAT IS AN
AGRICULTURAL IMPROVEMENT DISTRICT ESTABLISHED PURSUANT TO TITLE 48,
CHAPTER 17 SHALL OFFER A BUY-THROUGH PROGRAM THAT BOTH:
1. INCLUDES TERMS, CONDITIONS AND LIMITATIONS, INCLUDING A MINIMUM
QUALIFYING LOAD AND A MAXIMUM AMOUNT OF PROGRAM PARTICIPATION.
2. IS STRUCTURED TO MAINTAIN SYSTEM RELIABILITY AND TO AVOID A COST
SHIFT TO NONPARTICIPATING CUSTOMERS.
B. FOR THE PURPOSES OF THIS SECTION, "BUY-THROUGH" MEANS A PURCHASE
OF ELECTRICITY BY A PUBLIC POWER ENTITY AT THE DIRECTION OF A PARTICULAR
RETAIL CONSUMER, SUBJECT TO THE TERMS OF THE PROGRAM.

30-811. Coordinated scheduling of generation or transmission
A PUBLIC POWER ENTITY SHALL PARTICIPATE IN AND SUPPORT AN
INDEPENDENT SYSTEM OPERATOR, AN INDEPENDENT SYSTEM ADMINISTRATOR OR OTHER
EFFORTS TO COORDINATE SCHEDULING OF GENERATION OR TRANSMISSION WITHIN THIS
STATE OR REGION.

Sec. 14. Repeal
Sections 30-813 and 40-113, Arizona Revised Statutes, are repealed.
Sec. 15. Section 40-201, Arizona Revised Statutes, is amended to
read:

40-201. Definitions
In this chapter, unless the context otherwise requires:
1. "Ancillary services" means those services designated as
ancillary services in federal energy regulatory commission order 888
adopted in 1996 including the services necessary to support the
transmission of electricity from resources to loads while maintaining
reliable operation of the transmission system in accordance with good
utility practice.
2. "Appliance application" means central space heating, clothes
drying, water heating and indoor cooking.
3. "Bundled service" means electric service provided as a package
to the consumer including all generation, transmission, distribution,
ancillary and other services necessary to deliver and measure useful
electricity used by consumers.
5. "Common carrier" means a railroad or street railroad.
6. "Electric distribution facilities" means all property used
in connection with the distribution of electricity from an electric
generating plant to retail electric customers except electric transmission
facilities.
7. "Electric distribution service" means the distribution of electricity to retail electric customers through the use of electric distribution facilities.

8. "Electric distribution utility" means a public service corporation or public power entity that operates, controls or maintains electric distribution facilities.

9. "Electric generation plant" means all property used in connection with the generation for sale of electricity to retail electric customers but excluding any services provided by electric transmission facilities or electric distribution facilities.

10. "Electric generation service" means the provision of electricity for sale to retail electric customers but does not include electric distribution or transmission services and generation that are necessary for the reliable operation of the electric distribution or transmission system.

11. "Electric transmission facilities" means all property so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

12. "Electric transmission service" means the transmission of electricity to retail electric customers or to electric distribution facilities that is so classified by the federal energy regulatory commission or, to the extent permitted by law, so classified by the Arizona corporation commission.

13. "Electricity" OR "ELECTRIC SERVICE" means electric energy, electric capacity or electric capacity and energy.

14. "Electricity supplier" means a person, whether acting in a principal, agent or other capacity, that is a public service corporation that offers to sell electricity to a retail electric customer in this state.

15. "Foreign nonprofit, member owned cooperative corporation" means a cooperative incorporated in another state if that state has not ordered electric competition for cooperative corporations.

16. "Gas plant" includes all property used in connection with the production, transmission or delivery of gas for light, heat or power for sale.

17. "Other services" means metering, meter reading, billing and collecting services.

18. "Pipeline" includes all property used in transmission for compensation of air, steam or fluid substances, except water, through pipelines.

19. "Railroad" includes every railway, other than a street railroad, operated for public transportation of persons or property.

20. "Residential structure" means a detached owner-occupied or rental one or two family dwelling unit, an attached duplex or fourplex unit, a manufactured home, a residential factory-built building as defined
in section 41-4001 or a mobile home designed to be used with a permanent structure, excluding real property used to accommodate more than four attached dwelling units.

"Retail electric customer" means a person who purchases electricity for that person's own use, including use in that person's trade or business, and not for resale, redistribution or retransmission.

"Service territory" means the geographic area in which a public power entity AS DEFINED IN SECTION 30-801 or public service corporation owns, operates, controls or maintains electric distribution facilities or natural gas distribution facilities and that additional area in which the public power entity or public service corporation has agreed to extend electric distribution facilities or natural gas distribution facilities, whether established by a certificate of convenience and necessity, by official action by a public power entity or by contract or agreement.

"Sewer corporation" includes every person owning, controlling, operating or managing any sewage system for profit.

"Sewerage system" includes all property used in connection with the collection, treatment, purification and disposal transmission, storage or treatment of sewage.

"Street railroad" includes every railway operated along any street or public way for public transportation of persons or property, but does not include a commercial or interurban railway.

"Telecommunications corporation" means a public service corporation other than municipal engaged in transmitting messages or furnishing public telegraph or telephone service or operating as a telecommunications common carrier.

"Telegraph line" includes all property used in connection with communication by telegraph for compensation with or without the use of transmission wires.

"Telephone line" includes all property used in connection with communication by telephone, for compensation, with or without the use of transmission wires.

"Transportation of persons" includes every service in connection with the carriage and delivery of a person and the person's baggage.

"Transportation of property" includes every service in connection with the transportation and handling of property.

"Water system" includes all property used in connection with the diversion, development, storage, distribution and sale of water for beneficial uses for compensation.
Sec. 16. Section 40-202, Arizona Revised Statutes, is amended to read:

40-202. Supervising and regulating public service corporations; telecommunications promotion; consumer protection; duty to comply

A. The commission may supervise and regulate every public service corporation in this state and do all things, whether specifically designated in this title or in addition thereto, necessary and convenient in the exercise of that power and jurisdiction. In supervising and regulating long-distance telecommunications corporations, the commission shall encourage competition and growth in the telecommunications industry and promote economic development and investment in new telecommunications technologies, infrastructure and services. In furtherance of this policy, the commission shall establish procedures and standards for identifying and regulating competitive long-distance telecommunications markets. When the commission determines that a long-distance telecommunications market is competitive, it shall establish appropriate supervisory and regulatory treatment for competitive long-distance telecommunications markets as distinguished from noncompetitive telecommunications markets. In imposing any assessments or other charges on mobile telecommunications service providers, the commission shall comply with the requirements of the mobile telecommunications sourcing act (P.L. 106-252; 114 Stat. 626; 4 United States Code sections 116 through 126).

8. It is the public policy of this state that a competitive market shall exist in the sale of electric generation service. In order to transition to competition for electric generation service, the commission's authority is confirmed to:

i. Open the service territories of public service corporations, except foreign nonprofit, member owned cooperative corporations, to competitive access by other electricity suppliers or providers of other services not later than December 31, 1998 for at least twenty per cent of their 1995 retail load, at least fifteen per cent of which shall be reserved for customers in the residential customer class, and open their entire service territory to competition not later than December 31, 2000.

2. Establish reasonable requirements for certificating and regulating electricity suppliers that are public service corporations.

3. Maintain the current service territories of public service corporations and prohibit a public service corporation from providing electric distribution service in the service territories of other electric distribution utilities in this state.

4. Require an electric distribution utility that is a public service corporation and that has been granted a service territory through a certificate of convenience and necessity or a contract and agreement among utilities to provide other services for the service territory that the electric distribution utility serves as follows:
(a) Beginning on December 31, 1998 through December 31, 2000, billing and collections services shall be provided on a competitive basis for those retail electric customers with loads of one megawatt and above that have competitive electric generation service. After December 31, 2000 billing and collections services shall be provided on a competitive basis for all retail electric customers that have competitive electric generation service.

(b) Beginning on December 31, 1998 through December 31, 2000, metering shall be provided on a competitive basis for those retail electric customers with loads of one megawatt and above that have competitive electric generation service. After December 31, 2000 metering shall be provided on a competitive basis for all retail electric customers that have competitive electric generation service. All meters shall meet or exceed existing standards for safety, reliability and accuracy.

(c) By December 31, 1998 through December 31, 2000, meter reading shall be provided on a competitive basis for those retail electric customers with loads of one megawatt and above that have competitive electric generation service. After December 31, 2000 meter reading shall be provided on a competitive basis for all retail electric customers that have competitive electric generation service.

5. Require the electric distribution utility that is a public service corporation to act as the supplier of last resort for electric generation service for every retail electric customer within its electric distribution service territory whose annual usage is one hundred thousand kilowatt hours or less if other electricity suppliers are unwilling or are unable to supply electric generation service and whose electric generation service has been discontinued through no fault of the retail electric customer.

6. Provide for the recovery of just and reasonable costs incurred by the electric distribution utilities that are public service corporations for supplying electric generation service under paragraph 5 of this subsection through a distribution charge on retail customers whose annual usage is one hundred thousand kilowatt hours or less.

7. Investigate complaints regarding the subsidization of competitive services by any regulated rate or charge for any noncompetitive electric service and impose appropriate sanctions for any such subsidization.

8. Except as provided for the recovery of stranded costs, including costs associated with employee severance incurred as a direct result of competition among electric suppliers, as ordered by the commission, not consider the profits or losses associated with electric generation service when regulating electric distribution service.

C. B. In supervising and regulating public service corporations, the commission's authority is confirmed to adopt rules to:
1. Protect the public against deceptive, unfair and abusive business practices, practices related to deposit requirements and reconnect fees, intrusive and abusive marketing, deceptive or untrue advertising practices and practices prohibited under subsection H–E of this section.

2. Prohibit a public service corporation that forms an affiliate for the purposes of providing services that require a licensed contractor or has employees perform these services, including but not limited to electrical, heating, ventilation, air conditioning or plumbing or construction services, from advertising these services in their billing statement or in other mailings done by the electric distribution utility.

3. Provide that a separate authorization pursuant to paragraph 4 of this subsection to change electricity supplier and plain language in advertising and billing using uniform words and phrases that have the same meanings so that customers can make accurate comparisons.

4. Provide that a separate written and dated authorization is required for a change in a retail electricity supplier subject to the following:

   (a) The authorization shall not contain any inducements.

   (b) The authorization shall be in legible print with clear and plain language confirming the rates, terms, conditions and nature of the service to be provided.

   (c) The authorization shall not state or suggest that the customer take action to retain the customer's current electricity supplier.

   (d) An electricity supplier that submits or executes a change in a retail electricity customer's electricity supplier in violation of this paragraph shall refund to the retail electricity customer the entire amount of the customer's electricity charges attributable to electric generation service from the electricity supplier for three months, or the period of the unauthorized service, whichever is less.

   (e) The authorization shall be in the same language as any promotional or inducement materials provided to the retail electric customer.

   (f) No box or container may be used to collect entries for sweepstakes or a contest that, at the same time, is used to collect authorization by a retail electric customer to change the customer's electricity supplier or to subscribe to other services.

5. Provide that, notwithstanding any other law, customer information, account information and related proprietary information are confidential unless specifically waived by the customer in writing.

6. Ensure that public service corporations that employ the services of a contractor for interior household energy service, either directly or through any affiliate, require the contractors and subcontractors to be licensed by the registrar of contractors and shall comply with all municipal permit and inspection standards and applicable
life safety codes. For the purposes of this paragraph, “contractor” has
the same meaning prescribed in section 32-1101.

7. Permit the aggregation of loads by multiple customers.

8. In supervising and regulating public service corporations, it is
the public policy of this state that the most effective manner of
establishing just and reasonable rates for electricity is to permit
electric generation service prices to be established in a competitive
market.

E. The commission shall order on a nondiscriminatory basis that
public service corporations open their distribution territories to
competition by public power entities to the same extent and under the same
terms and conditions as authorized electricity suppliers are granted
access through commission rules or orders.

F. C. Except as provided in subsection G D of this section,
during the initial construction of a residential structure, electric and
natural gas facilities at a minimum shall be installed in and to the
structure in a manner that provides the retail energy consumer ultimately
residing in the structure with the capability to choose between
electricity and natural gas as an energy source for each appliance
application.

G. D. A residential structure may be constructed without the
installation of any particular facilities if:

1. The structure is not located within the service territory of a
public service corporation certificated to furnish the associated energy
service.

2. Unless mandated otherwise by law or governmental regulation, the
public service corporation certificated to furnish the associated energy
notifies the contractor or owner that the extension of the facilities to
the structure is not economically feasible.

3. The public service corporation certificated to furnish a
particular energy service and the owner or contractor agree that the
extension of the facilities to the subdivision, to the structure or to any
appliance application would not be economically feasible or would
otherwise be inappropriate. In this case, the parties may agree to
install no facilities in the subdivision, to install service to any or all
residential structures without providing service to any appliance
application or to install facilities to some but not all appliance
applications.

H. E. Unless mandated by law or a generally accepted industry
code, a person or entity, including municipal corporations and political
subdivisions, shall not engage in any practice that interferes with the
opportunity to have electric and natural gas facilities at a minimum
installed in and to an existing residential structure in a manner that
provides the retail energy consumer ultimately residing in the structure
and all subsequent retail energy consumers residing in the structure with
the capability to choose between electricity and natural gas as an energy source for each appliance application. This subsection does not apply to reasonable sales and marketing activities.

F. If a trench is provided by a contractor or a property owner for the purpose of having utility facilities installed to a residential structure, electric and natural gas facilities at a minimum shall be permitted to occupy the trench if the installation of the facilities is completed in compliance with generally accepted industry safety codes applicable to the installation. Except in the case of underground conversion service areas provided for in sections 40-341 through 40-355 and improvement districts for underground utility facilities provided for in section 48-620, if the contractor or property owner conditions occupancy in a trench on a reimbursement of costs associated with providing the trench, the contractor or property owner may require an occupant to pay a pro rata share of the costs associated with providing the trench. A public service corporation may use as a credit against the payment money paid through the public service corporation's conduit or other reimbursement programs.

G. Before initiating a complaint with a public service corporation or the commission, the parties to a dispute arising under subsections F through I C, D, E AND F of this section shall meet and in good faith attempt to resolve the dispute through an informal dispute resolution process. Compliance with subsections F through I C, D, E AND F of this section does not require inspection or enforcement by a city, town or county.

H. After facilities have been installed initially in accordance with subsection F C of this section, the public service corporation, the homeowner, the home builder or the contractor is not responsible or liable for any subsequent modification to the number of initially installed facilities.

I. A public service corporation shall comply with every order, decision, rule or regulation made by the commission in any matter relating to or affecting its business as a public service corporation and shall do everything necessary to secure compliance with and observance of every such order, decision, rule or regulation.


N. The provisions of subsection B, paragraphs 3 and 5 of this section are subject to legislative review by the auditor general in 2008.

O. The provisions of subsection B, paragraph 4 of this section are subject to sunset review by the auditor general in 2003.
P. Failure to comply with the rules or procedures adopted pursuant to subsections B and C of this section is an unlawful practice pursuant to section 44-1522. The attorney general may investigate and take appropriate action as prescribed by title 44, chapter 10, article 7.

Sec. 17. Repeal
Sections 40-207 and 40-208, Arizona Revised Statutes, are repealed.
Sec. 18. Section 40-286, Arizona Revised Statutes, is amended to read:

40-286. Exemption from antitrust statutes
The provisions of Title 44, chapter 10, article 1, shall DOES not apply to any conduct or activity of a public service corporation holding a certificate of public convenience and necessity granted pursuant to this article, which conduct or activity is approved by a statute of this state or of the United States or by the corporation commission or an administrative agency of this state or of the United States having jurisdiction of the subject matter. This section does not apply to the provision of competitive electric generation service or other services or to the provision of any competitive telecommunications services. This section does not alter, modify or affect applicable federal or state law regarding the rights of an owner of private property relative to provision of or access to telecommunication services on or for that private property.

Sec. 19. Repeal
Laws 1998, chapter 209, section 35 is repealed.

APPROVED BY THE GOVERNOR APRIL 26, 2022.