

REFERENCE TITLE: electric energy; public policy; reliability

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

# SB 1631

Introduced by  
Senators Kerr: Fann, Gray, Leach, Rios, Shope

## 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, 30-802, 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)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Repeal

3 Section 9-520, Arizona Revised Statutes, is repealed.

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

6 10-2057. Powers of electric cooperative

7 A. A cooperative organized under this article may:

8 1. Sue and be sued in its corporate name.

9 2. Have perpetual existence.

10 3. Adopt and alter a corporate seal.

11 4. ~~To compete more effectively with other entities in the electric~~  
12 ~~energy market, Engage in the generation, manufacture, purchase,~~  
13 ~~acquisition, accumulation, transmission, marketing, sale, distribution,~~  
14 ~~supply and disposition of electric energy, either individually or jointly~~  
15 ~~in collaboration with other corporations that have loans made or~~  
16 ~~guaranteed by the United States through the administrator of the rural~~  
17 ~~utilities service or that are nonprofit members of the corporation~~  
18 ENTITIES.

19 5. Assist persons to whom electric energy is or will be supplied by  
20 the cooperative in wiring their premises and in acquiring and installing  
21 electrical and plumbing appliances, equipment, fixtures and apparatus by  
22 means of financing.

23 6. Assist persons to whom electric energy is or will be supplied by  
24 the cooperative in constructing, equipping, maintaining and operating  
25 electric cold storage or processing plants by means of financing.

26 7. Construct, purchase, lease or otherwise acquire, and equip,  
27 maintain and operate, and sell, assign, convey, lease, mortgage, pledge or  
28 otherwise dispose of or encumber electric transmission and distribution  
29 lines or systems, electric generating plants, lands, buildings,  
30 structures, dams, plants and equipment, and any other real or personal  
31 property, tangible or intangible, that is deemed necessary, convenient or  
32 appropriate to accomplish any purpose for which the cooperative is  
33 organized or that it elects to undertake.

34 8. Purchase, lease or otherwise acquire, and use, and exercise and  
35 sell, assign, convey, mortgage, pledge or otherwise dispose of or  
36 encumber, franchises, rights, privileges, licenses and easements.

37 9. Borrow money and otherwise contract indebtedness, and issue  
38 notes, bonds and other evidences of indebtedness, and secure the payment  
39 thereof by mortgage, pledge or deed of trust of, or any other encumbrance  
40 on, any or all of its presently owned or after-acquired real or personal  
41 property, assets, franchises or revenues.

42 10. Construct, maintain and operate electric transmission and  
43 distribution lines along, on, under and across publicly owned lands and  
44 public thoroughfares, including all roads, highways, streets, alleys,  
45 bridges and causeways, and acquire for such purposes franchises, licenses,

1       permits, easements, rights-of-way and all similar rights and privileges  
2       relating to such purposes.

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

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

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

12      14. Adopt, amend and repeal bylaws.

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

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

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

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

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

43      2. "Invest" means to commit monies to earn a financial return on  
44      assets that are not expected to be used or useful in furnishing electric  
45      service. The total amount that the electric cooperative invests, loans or

1 uses as a guarantee is limited to those monies authorized under federal  
2 law for rural development programs.

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

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

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

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

12      10-2081. Exemption from antitrust statutes

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

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

22      10-2127. Powers of a generation and transmission cooperative

23      A. A generation and transmission cooperative may:

- 24       1. Sue and be sued and complain and defend in its corporate name.
- 25       2. Have perpetual existence by its corporate name.

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

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

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

43       6. Purchase, take, receive, subscribe for or otherwise acquire,  
44 own, hold, vote, exercise rights arising out of the ownership or  
45 possession, use, employ, sell, assign, transfer, convey, mortgage, lend,

1 pledge, hypothecate or otherwise use and deal in and with shares, rights,  
2 memberships or other interests in, or notes, bonds, debentures, mortgages,  
3 passbooks, certificates of deposit or other obligations of other domestic  
4 or foreign corporations, associations, partnerships, limited partnerships  
5 or individuals, or direct or indirect obligations or securities of  
6 individuals, associations, cooperatives, partnerships, corporations or of  
7 the United States or of any other government, state, territory,  
8 governmental district or municipality or of any instrumentality thereof.

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

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

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

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

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

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

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

45       14. Adopt, amend and repeal bylaws consistent with this article.

1       15. Cease its corporate activities and surrender its corporate  
2 franchise.

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

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

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

17      Sec. 5. Heading change

18      The chapter heading of title 30, chapter 6, Arizona Revised  
19 Statutes, is changed from "ELECTRIC POWER COMPETITION" to "ELECTRIC ENERGY  
20 RELIABILITY".

21      Sec. 6. Repeal

22      Sections 30-801, 30-802, 30-803 and 30-805, Arizona Revised  
23 Statutes, are repealed.

24      Sec. 7. Title 30, chapter 6, article 1, Arizona Revised Statutes,  
25 is amended by adding new sections 30-801, 30-802, 30-803 and 30-805, to  
26 read:

27      30-801. Definitions

28      IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

29      1. "ELECTRICITY" OR "ELECTRIC SERVICE" MEANS ELECTRIC ENERGY,  
30 ELECTRIC CAPACITY OR ELECTRIC CAPACITY AND ENERGY.

31      2. "PUBLIC POWER ENTITY":

32      (a) MEANS ANY MUNICIPAL CORPORATION, CITY, TOWN OR OTHER POLITICAL  
33 SUBDIVISION THAT IS ORGANIZED UNDER STATE LAW, THAT GENERATES, TRANSMITS,  
34 DISTRIBUTES OR OTHERWISE PROVIDES ELECTRICITY AND THAT IS NOT A PUBLIC  
35 SERVICE CORPORATION.

36      (b) DOES NOT INCLUDE:

37      (i) A CITY OR TOWN WITH A POPULATION OF LESS THAN SEVENTY-FIVE  
38 THOUSAND PERSONS.

39      (ii) A POWER DISTRICT, ELECTRICAL DISTRICT, IRRIGATION AND WATER  
40 CONSERVATION DISTRICT OR MULTI-COUNTY WATER CONSERVATION DISTRICT  
41 ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 11, 12, 19 OR 22.

42      (iii) THE ARIZONA POWER AUTHORITY.

43      3. "RETAIL ELECTRIC CUSTOMER" MEANS A PERSON THAT PURCHASES  
44 ELECTRICITY FOR THAT PERSON'S OWN USE, INCLUDING USE IN THAT PERSON'S  
45 TRADE OR BUSINESS, AND NOT FOR RESALE, REDISTRIBUTION OR RETRANSMISSION.

1       4. "SERVICE TERRITORY" MEANS THE GEOGRAPHIC AREA IN WHICH A PUBLIC  
2 POWER ENTITY OR PUBLIC SERVICE CORPORATION OWNS, OPERATES, CONTROLS OR  
3 MAINTAINS EITHER ELECTRIC DISTRIBUTION FACILITIES OR NATURAL GAS  
4 DISTRIBUTION FACILITIES AND THAT ADDITIONAL AREA IN WHICH THE PUBLIC POWER  
5 ENTITY OR PUBLIC SERVICE CORPORATION HAS AGREED TO EXTEND ELECTRIC  
6 DISTRIBUTION FACILITIES OR NATURAL GAS DISTRIBUTION FACILITIES, WHETHER  
7 ESTABLISHED BY A CERTIFICATE OF CONVENIENCE AND NECESSITY, BY OFFICIAL  
8 ACTION BY A PUBLIC POWER ENTITY OR BY CONTRACT OR AGREEMENT.

9       30-802. Reliability; electric service; public policy

10      IT IS THE PUBLIC POLICY OF THIS STATE THAT ELECTRIC SERVICE REQUIRES  
11 INFRASTRUCTURE PLANNING AND INVESTMENTS BY THE PUBLIC POWER ENTITY  
12 RESPONSIBLE FOR ITS SERVICE TERRITORY IN ORDER TO MAINTAIN RELIABLE AND  
13 AFFORDABLE ELECTRIC SERVICE AND THAT ELECTRIC SERVICE BE PROVIDED AT JUST  
14 AND REASONABLE RATES DETERMINED BY THE GOVERNING BODY OF THE PUBLIC POWER  
15 ENTITY.

16      30-803. Consumer protection; unfair practices; policies;  
17                   ombudsman; cities and towns

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

23      1. DECEPTIVE, UNFAIR AND ABUSIVE BUSINESS PRACTICES, INCLUDING  
24 DEPOSIT REQUIREMENTS AND RECONNECTION FEES.

25      2. INTRUSIVE AND ABUSIVE MARKETING PRACTICES.

26      3. DECEPTIVE OR UNTRUE ADVERTISING PRACTICES.

27      4. PRACTICES PROHIBITED UNDER SECTION 30-806, SUBSECTION C.

28      B. IF A PUBLIC POWER ENTITY EMPLOYS THE SERVICES OF A CONTRACTOR  
29 FOR INTERIOR HOUSEHOLD ENERGY SERVICE, EITHER DIRECTLY OR THROUGH ANY  
30 AFFILIATE, THE CONTRACTOR AND ANY SUBCONTRACTORS SHALL BE LICENSED BY THE  
31 REGISTRAR OF CONTRACTORS AND SHALL COMPLY WITH ALL MUNICIPAL PERMIT AND  
32 INSPECTION STANDARDS AND APPLICABLE LIFE SAFETY CODES. FOR THE PURPOSES  
33 OF THIS SUBSECTION, "CONTRACTOR" HAS THE SAME MEANING PRESCRIBED IN  
34 SECTION 32-1101.

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

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

41      30-805. Confidential customer information; protection

42      A. NOTWITHSTANDING ANY OTHER LAW, A PUBLIC POWER ENTITY MAY NOT  
43 RELEASE CUSTOMER-SPECIFIC INFORMATION WITHOUT SPECIFIC PRIOR WRITTEN  
44 CUSTOMER AUTHORIZATION UNLESS THE INFORMATION IS REASONABLY REQUIRED FOR  
45 LEGITIMATE ACCOUNT COLLECTION ACTIVITIES OR CREDIT ANALYSIS ACTIVITIES OR

1 WHEN SUCH INFORMATION AIDS IN PROVIDING SAFE AND RELIABLE SERVICE TO THE  
2 CUSTOMER OR UNLESS OTHERWISE PROVIDED BY COURT ORDER. A PUBLIC POWER  
3 ENTITY SHALL ADOPT REASONABLE RULES AND PROCEDURES TO ENSURE  
4 CONFIDENTIALITY.

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

14 Sec. 8. Repeal

15 Sections 30-806, 30-807 and 30-808, Arizona Revised Statutes, are  
16 repealed.

17 Sec. 9. Renumber

18 Section 30-809, Arizona Revised Statutes, is renumbered as section  
19 30-806.

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

22 30-807. Application for rehearing; effect; decision

23 A. After any final order or decision is made by the governing body  
24 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  
31 party to the action or proceeding PERSON or the attorney general on behalf  
32 of ~~the~~ THIS state may apply for a rehearing of any matter determined in  
33 the action or proceeding ~~and~~ REGARDING THE RATEMAKING OR RATE DESIGN  
34 PROCESS specified in the application for rehearing within twenty days ~~of~~  
35 AFTER entry of the order or decision. Unless otherwise ordered, ~~the~~  
36 filing ~~of~~ the application does not stay the decision of the governing body  
37 of the public power entity. If the governing body of the public power  
38 entity does not grant the application within twenty days, it is deemed  
39 denied. If the governing body of the public power entity grants the  
40 application, WITHIN TWENTY DAYS AFTER GRANTING THE APPLICATION, the  
41 governing body of the public power entity shall ~~promptly~~ hear the matter  
42 and make a determination ~~within twenty days after final submission~~.

43 B. ~~No~~ A claim arising from any order or decision of the governing  
44 body of the public power entity ~~regarding terms and conditions for~~  
45 ~~customer selection, complaint resolution, consumer protection, stranded~~

1 ~~costs, transmission and distribution service rates and charges, system~~  
2 ~~benefit charges and other related matters as determined in the reasonable~~  
3 ~~discretion of the governing body of the public power entity or regarding~~  
4 ~~compliance with an intergovernmental agreement made under the provision of~~  
5 ~~this chapter~~ MADE IN THE COURSE OF A RATEMAKING OR RATE DESIGN PROCESS  
6 shall NOT accrue in any court to any party or ~~the~~ THIS state unless the  
7 party or ~~the~~ THIS state makes, before the effective date of the order or  
8 decision, ~~application~~ APPLIES to the governing body of the public power  
9 entity for a rehearing.

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

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

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

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

31 30-808. Action to set aside or modify certain orders or  
32 decisions of public power entities; filing;  
33 limitation; superior court

34 A. Any ~~party in interest~~ PERSON, or the attorney general on behalf  
35 of ~~the~~ THIS state, who is dissatisfied with an order or decision of the  
36 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~~  
37 MADE IN THE COURSE OF A RATEMAKING OR RATE DESIGN PROCESS, within thirty  
38 days after a rehearing is denied or ~~granted~~ DEEMED DENIED, MAY commence an  
39 action in superior court in the county in which the governing body of the  
40  
41  
42  
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45

1 public power entity has its office, against the governing body of the  
2 public power entity as defendant, to vacate, set aside, affirm IN WHOLE OR  
3 in part, reverse in part or remand with instructions to the governing body  
4 of the public power entity the order or decision on the ~~ground~~ GROUNDS  
5 that the ~~valuation, rate, joint rate, toll, fare, charge or finding, rule,~~  
6 ~~classification or schedule, practice, demand, requirement, act or service~~  
7 ~~provided in the~~ order or decision is unlawful or ~~that any rule, practice,~~  
8 ~~act or service provided in the order or decision is unlawful, or that any~~  
9 ~~rule, practice, act or service provided in the order or decision is~~  
10 ~~unreasonable~~ IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE OR THAT THE  
11 GOVERNING BODY ABUSED ITS DISCRETION. The answer of the governing body of  
12 the public power entity shall be served and filed within twenty days after  
13 service of the complaint, AND the action shall be at issue and ready for  
14 trial on ten days' notice to either party. The action shall be tried and  
15 determined as other civil actions except as provided in this section.

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

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

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

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

40 F. Except as provided by this section no court of this state shall  
41 have jurisdiction to enjoin, restrain, suspend, delay or review any order  
42 or decision of the governing body of the public power entity or to enjoin,  
43 restrain or interfere with the governing body of the public power entity  
44 in the performance of its official duties and the rules, orders or decrees  
45 fixed by the governing body of the public power entity remain in force

1 pending the decision of the courts. A writ of mandamus may be issued from  
2 the supreme court to the governing body of the public power entity in  
3 cases authorized by law.

4 Sec. 12. Section 30-812, Arizona Revised Statutes, is renumbered as  
5 section 30-809, and as so renumbered, is amended to read:

6 30-809. Action to set aside or modify certain governing body  
7 of public power entity orders or decisions;  
8 limitation; court of appeals

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

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

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

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

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

40 F. Except as provided by this section, a court of this state does  
41 not have jurisdiction to enjoin, restrain, suspend, delay or review any  
42 order or decision of the governing body of the public power entity  
43 involving any public power entity and ~~relating to rate making~~ MADE IN THE  
44 COURSE OF A RATEMAKING or rate design PROCESS or to enjoin, restrain or  
45 interfere with the governing body of the public power entity in the

1 performance of its official duties and the rules, orders or decrees fixed  
2 by the governing body of the public power entity remain in force pending  
3 the decision of the courts, but a writ of mandamus shall lie from the  
4 supreme court to the governing body of the public power entity in cases  
5 authorized by law.

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

8 30-810. *Buy-through program; terms, conditions, limitations;*  
9 *definition*

10 A. ON OR BEFORE JANUARY 1, 2024, A PUBLIC POWER ENTITY THAT IS AN  
11 AGRICULTURAL IMPROVEMENT DISTRICT ESTABLISHED PURSUANT TO TITLE 48,  
12 CHAPTER 17 SHALL OFFER A BUY-THROUGH PROGRAM THAT BOTH:

13 1. INCLUDES TERMS, CONDITIONS AND LIMITATIONS, INCLUDING A MINIMUM  
14 QUALIFYING LOAD AND A MAXIMUM AMOUNT OF PROGRAM PARTICIPATION.

15 2. IS STRUCTURED TO MAINTAIN SYSTEM RELIABILITY AND TO AVOID A COST  
16 SHIFT TO NONPARTICIPATING CUSTOMERS.

17 B. FOR THE PURPOSES OF THIS SECTION, "BUY-THROUGH" MEANS A PURCHASE  
18 OF ELECTRICITY BY A PUBLIC POWER ENTITY AT THE DIRECTION OF A PARTICULAR  
19 RETAIL CONSUMER, SUBJECT TO THE TERMS OF THE PROGRAM.

20 30-811. *Coordinated scheduling of generation or transmission*

21 A PUBLIC POWER ENTITY SHALL PARTICIPATE IN AND SUPPORT AN  
22 INDEPENDENT SYSTEM OPERATOR, AN INDEPENDENT SYSTEM ADMINISTRATOR OR OTHER  
23 EFFORTS TO COORDINATE SCHEDULING OF GENERATION OR TRANSMISSION WITHIN THIS  
24 STATE OR REGION.

25 Sec. 14. Repeal

26 Sections 30-813 and 40-113, Arizona Revised Statutes, are repealed.

27 Sec. 15. Section 40-201, Arizona Revised Statutes, is amended to  
28 read:

29 40-201. *Definitions*

30 In this chapter, unless the context otherwise requires:

31 ~~1. "Ancillary services" means those services designated as  
32 ancillary services in federal energy regulatory commission order 888  
33 adopted in 1996 including the services necessary to support the  
34 transmission of electricity from resources to loads while maintaining  
35 reliable operation of the transmission system in accordance with good  
36 utility practice.~~

37 ~~2. 1. "Appliance application" means central space heating, clothes  
38 drying, water heating and indoor cooking.~~

39 ~~3. "Bundled service" means electric service provided as a package  
40 to the consumer including all generation, transmission, distribution,  
41 ancillary and other services necessary to deliver and measure useful  
42 electricity used by consumers.~~

43 ~~4. 2. "Commission" means the ~~Arizona~~ corporation commission.~~

44 ~~5. 3. "Common carrier" means a railroad or street railroad.~~

1        ~~6.~~ 4. "Electric distribution facilities" means all property used  
2 in connection with the distribution of electricity from an electric  
3 generating plant to retail electric customers except electric transmission  
4 facilities.

5        ~~7.~~ 5. "Electric distribution service" means the distribution of  
6 electricity to retail electric customers through the use of electric  
7 distribution facilities.

8        ~~8.~~ 6. "Electric distribution utility" means a public service  
9 corporation or public power entity that operates, controls or maintains  
10 electric distribution facilities.

11        ~~9.~~ 7. "Electric generation plant" means all property used in  
12 connection with the generation for sale of electricity to retail electric  
13 customers but excluding any services provided by electric transmission  
14 facilities or electric distribution facilities.

15        ~~10.~~ 8. "Electric generation service" means the provision of  
16 electricity for sale to retail electric customers but does not include  
17 electric distribution or transmission services and generation that are  
18 necessary for the reliable operation of the electric distribution or  
19 transmission system.

20        ~~11.~~ 9. "Electric transmission facilities" means all property so  
21 classified by the federal energy regulatory commission or, to the extent  
22 permitted by law, so classified by the Arizona corporation commission.

23        ~~12.~~ 10. "Electric transmission service" means the transmission of  
24 electricity to retail electric customers or to electric distribution  
25 facilities that is so classified by the federal energy regulatory  
26 commission or, to the extent permitted by law, so classified by the  
27 Arizona corporation commission.

28        ~~13.~~ 11. "Electricity" OR "ELECTRIC SERVICE" means electric energy,  
29 electric capacity or electric capacity and energy.

30        ~~14.~~ 12. "Electricity supplier" means a person, whether acting in a  
31 principal, agent or other capacity, that is a public service corporation  
32 that offers to sell electricity to a retail electric customer in this  
33 state.

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

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

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

42        ~~18. 13. "Pipeline" includes all property used in transmission for  
43 compensation of air, steam or fluid substances, except water, through  
44 pipelines.~~

1        ~~14.~~ 14. "Railroad" includes every railway, other than a street  
2 railroad, operated for public transportation of persons or property.

3        ~~20.~~ 15. "Residential structure" means a detached owner-occupied or  
4 rental one or two family dwelling unit, an attached duplex or fourplex  
5 unit, a manufactured home, a residential factory-built building as defined  
6 in section 41-4001 or a mobile home designed to be used with a permanent  
7 structure, excluding real property used to accommodate more than four  
8 attached dwelling units.

9        ~~21.~~ 16. "Retail electric customer" means a person who purchases  
10 electricity for that person's own use, including use in that person's  
11 trade or business, and not for resale, redistribution or retransmission.

12        ~~22.~~ 17. "Service territory" means the geographic area in which a  
13 public power entity **AS DEFINED IN SECTION 30-801** or public service  
14 corporation owns, operates, controls or maintains electric distribution  
15 facilities or natural gas distribution facilities and that additional area  
16 in which the public power entity or public service corporation has agreed  
17 to extend electric distribution facilities or natural gas distribution  
18 facilities, whether established by a certificate of convenience and  
19 necessity, by official action by a public power entity or by contract or  
20 agreement.

21        ~~23.~~ 18. "Sewer corporation" includes every person owning,  
22 controlling, operating or managing any sewage system for profit.

23        ~~24.~~ 19. "Sewerage system" includes all property used in connection  
24 with the collection, treatment, purification and disposal transmission,  
25 storage or treatment of sewage.

26        ~~25.~~ 20. "Street railroad" includes every railway operated along  
27 any street or public way for public transportation of persons or property,  
28 but does not include a commercial or interurban railway.

29        ~~26.~~ 21. "Telecommunications corporation" means a public service  
30 corporation other than municipal engaged in transmitting messages or  
31 furnishing public telegraph or telephone service or operating as a  
32 telecommunications common carrier.

33        ~~27.~~ 22. "Telegraph line" includes all property used in connection  
34 with communication by telegraph for compensation with or without the use  
35 of transmission wires.

36        ~~28.~~ 23. "Telephone line" includes all property used in connection  
37 with communication by telephone, for compensation, with or without the use  
38 of transmission wires.

39        ~~29.~~ 24. "Transportation of persons" includes every service in  
40 connection with the carriage and delivery of a person and the person's  
41 baggage.

42        ~~30.~~ 25. "Transportation of property" includes every service in  
43 connection with the transportation and handling of property.

1       31. "Water system" includes all property used in connection with  
2 the diversion, development, storage, distribution and sale of water for  
3 beneficial uses for compensation.

4       Sec. 16. Section 40-202, Arizona Revised Statutes, is amended to  
5 read:

6       40-202. Supervising and regulating public service  
7                    corporations; telecommunications promotion;  
8                    consumer protection; duty to comply

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

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

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

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

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

1       4. Require an electric distribution utility that is a public  
2 service corporation and that has been granted a service territory through  
3 a certificate of convenience and necessity or a contract and agreement  
4 among utilities to provide other services for the service territory that  
5 the electric distribution utility serves as follows.

6       (a) Beginning on December 31, 1998 through December 31, 2000,  
7 billing and collections services shall be provided on a competitive basis  
8 for those retail electric customers with loads of one megawatt and above  
9 that have competitive electric generation service. After December 31,  
10 2000 billing and collections services shall be provided on a competitive  
11 basis for all retail electric customers that have competitive electric  
12 generation service.

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

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

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

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

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

43       8. Except as provided for the recovery of stranded costs, including  
44 costs associated with employee severance incurred as a direct result of  
45 competition among electric suppliers, as ordered by the commission, not

1 consider the profits or losses associated with electric generation service  
2 when regulating electric distribution service.

3 B. IT IS THE PUBLIC POLICY OF THIS STATE THAT ELECTRIC SERVICE  
4 REQUIRES INFRASTRUCTURE PLANNING AND INVESTMENTS BY THE PUBLIC SERVICE  
5 CORPORATION RESPONSIBLE FOR ITS SERVICE TERRITORY IN ORDER TO MAINTAIN  
6 RELIABLE AND AFFORDABLE ELECTRIC SERVICE AND THAT ELECTRIC SERVICE BE  
7 PROVIDED AT JUST AND REASONABLE RATES DETERMINED BY THE COMMISSION  
8 PURSUANT TO ARTICLE XV, SECTION 3, CONSTITUTION OF ARIZONA, FOR PUBLIC  
9 SERVICE CORPORATIONS.

10 C. In supervising and regulating public service corporations, the  
11 commission's authority is confirmed to adopt rules to:

12 1. Protect the public against deceptive, unfair and abusive  
13 business practices, practices related to deposit requirements and  
14 reconnection fees, intrusive and abusive marketing, deceptive or untrue  
15 advertising practices and practices prohibited under subsection ~~H~~ F of  
16 this section.

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

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

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

30 (a) ~~The authorization shall not contain any inducements.~~

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

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

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

42 (e) ~~The authorization shall be in the same language as any  
43 promotional or inducement materials provided to the retail electric  
44 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.** 2. 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. 3. 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.~~

D. 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.

**D.** Except as provided in subsection **E** 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.** E. 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

1 otherwise be inappropriate. In this case, the parties may agree to  
2 install no facilities in the subdivision, to install service to any or all  
3 residential structures without providing service to any appliance  
4 application or to install facilities to some but not all appliance  
5 applications.

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

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

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

38 ~~K.~~ I. After facilities have been installed initially in accordance  
39 with subsection ~~F~~ D of this section, the public service corporation, the  
40 homeowner, the home builder or the contractor is not responsible or liable  
41 for any subsequent modification to the number of initially installed  
42 facilities.

43 ~~L.~~ J. A public service corporation shall comply with every order,  
44 decision, rule or regulation made by the commission in any matter relating  
45 to or affecting its business as a public service corporation and shall do

1 everything necessary to secure compliance with and observance of every  
2 such order, decision, rule or regulation.

3 ~~M. The commission by rule or order may exempt or partially exempt  
4 any competitive service of any public service corporation from the  
5 application of section 40-203, section 40-204, subsections A and B and  
6 sections 40-248, 40-250, 40-251, 40-285, 40-301, 40-302, 40-303, 40-321,  
7 40-322, 40-331, 40-332, 40-334, 40-365, 40-366, 40-367, 40-374 and 40-401.~~

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

10 ~~O. The provisions of subsection B, paragraph 4 of this section are  
11 subject to sunset review by the auditor general in 2003.~~

12 ~~P. Failure to comply with the rules or procedures adopted pursuant  
13 to subsections B and C of this section is an unlawful practice pursuant to  
14 section 44-1522. The attorney general may investigate and take  
15 appropriate action as prescribed by title 44, chapter 10, article 7.~~

16 Sec. 17. Repeal

17 Sections 40-207 and 40-208, Arizona Revised Statutes, are repealed.

18 Sec. 18. Section 40-286, Arizona Revised Statutes, is amended to  
19 read:

20 40-286. Exemption from antitrust statutes

21 ~~The provisions of~~ Title 44, chapter 10, article 1, ~~shall~~ DOES not  
22 apply to any conduct or activity of a public service corporation holding a  
23 certificate of public convenience and necessity granted pursuant to this  
24 article, which conduct or activity is approved by a statute of this state  
25 or of the United States or by the corporation commission or an  
26 administrative agency of this state or of the United States having  
27 jurisdiction of the subject matter. This section does not apply to the  
28 provision of ~~competitive electric generation service or other services or~~  
29 ~~to the provision of~~ any competitive telecommunications services. This  
30 section does not alter, modify or affect applicable federal or state law  
31 regarding the rights of an owner of private property relative to provision  
32 of or access to telecommunication services on or for that private  
33 property.

34 Sec. 19. Repeal

35 Laws 1998, chapter 209, section 35 is repealed.