



## Support Reliable Energy for Arizonans

DRAFT Fact Sheet

Reliable and affordable electricity is essential for life in Arizona – there’s really no question. The Electric Reliability Act (HBXXXX) ensures that the State’s energy policy prioritizes reliability and consumer protection instead of allowing the same failed electric deregulated model that exists in other states to jeopardize Arizona’s proven standard in reliability, affordability, and customer protection. The resource planning challenges, volatile pricing and predatory practices in restructured states should be a warning to Arizonans, who narrowly escaped a similar fate after turning back from electric deregulation in the early 2000s. Now, Arizona can reinforce its proven system with public policy that promotes planning and investment in a reliable grid, with affordable rates, and consumer protection.

The Electric Reliability Act protects Arizonans and the grid in three important ways:

### 1. Provides clear public policy that prioritizes reliability and affordability through long-term planning and investments in the grid.

- Establishes a public policy statement that recognizes electricity as an essential public service and the need for infrastructure planning and investments to ensure reliable, and affordable electric service that is provided at constitutionally required just and reasonable rates. [Sec. 7 and Sec. 15]
- Repeals the defunct 1998 electric deregulation law that could be used to jeopardize the delivery of an essential public service, expose customers to predatory marketing and threaten Arizona’s continued steady economic growth. [Sec. 6]

Electric deregulation has proven far more problematic than traditional regulation. Deregulation in Montana caused the local utility to shed its generation assets, and after prices rose and energy capacity evaporated, Montana reversed course – and ratepayers are still footing the bill for the “deregulation debacle.”<sup>1</sup> The Attorneys General in Illinois and Massachusetts have sought to protect residential customers from the effects of competition in their states, including higher prices and predatory practices.<sup>2</sup> In New York, the New York Public Utility Commission concluded in 2016 that customers had paid competitive providers \$820 million more for electric and gas service than they would have paid their incumbent

<sup>1</sup> Szpaller, Keila. Daily Montanan, April 20, 2021. “Colstrip bill reminds many of energy deregulation debacle.” Article can be accessed here: [Colstrip bill reminds many of energy deregulation 'debacle' – Daily Montanan](#)

<sup>2</sup> Press Release: AG Healey Calls for Shut Down of Individual Residential Competitive Supply Industry to Protect Electric Customers, March 29, 2018 (<https://www.mass.gov/news/ag-healey-calls-for-shut-down-of-individual-residential-competitive-supply-industry-to-protect>); <http://www.energychoicematters.com/stories/20181119aa.html>

**X** This bill is not about “reliability. This bill is about 1 thing only: prohibiting Arizona consumers from ever having a choice of their energy provider.

**X** Arizonans can have this **and** have a choice of their electricity provider.

**X** Arizona’s regulated choice model is not “deregulation” and is different than other States’ programs. Our State constitution uniquely requires continued regulation.

**X** This bill protects 1 thing: it protects Arizona monopolies from competition.

**X** This fact sheet wrongly claims that deregulation is coming to Arizona. In fact, Arizona’s constitution **prohibits** deregulation and requires that ACC to continue to regulate competitive providers.

**X** Montana customers that remain on competitive rates paid less than 50% of the regulated utility’s energy rate in 2020 according to the latest EIA data.  
Source: Form 861, U.S. Energy Information Administration:  
<https://www.eia.gov/electricity/data/eia861/>

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utilities.<sup>3</sup> In Texas, deregulation has discouraged reliability investments and allowed energy reserves to dwindle to the point that its grid suffered catastrophic failure when Texans needed it the most last winter.

Arizona should learn from the mistakes of other states by protecting residents and small businesses and endorsing energy policy that preserves reliable, affordable electric service.

**2. Prevents predatory marketing practices common in deregulated states and expands consumer protection.**

In the traditional utility structure, there is no room for predatory marketers because utilities focus on customer service, not customer acquisition. This bill maintains the Arizona-based regulatory structure that has served Arizona customers well for more than 100 years. With an obligation to serve customers in the defined service area, the utilities focus on expanding customer options to manage their energy use and meet their lifestyle needs, not providing deceptive incentives just to get them to sign on the dotted line.

- Requires public power entities to establish an Ombudsman’s office to investigate complaints about customer service. [Sec. 7]
- Requires Public Power Entities to establish policies against:
  - Deceptive, unfair or abusive business practices
  - Intrusive or abusive marketing practices
  - Deceptive or untrue advertising practices [Sec. 7]
- Requires contractors used by utilities for in-home services to be licensed and follow applicable codes. [Sec. 7]
- Protects confidential customer information and trade secrets. [Sec. 7]
- Enables all persons, even those who are not public power customers, to challenge ratemaking decisions by the Arizona-based governing body and provides clarity that the grounds on which the courts can overturn are that the governing body’s decision was unlawful, not supported by substantial evidence or that the governing body abused its discretion. [Sec. 10, Sec. 11 and Sec. 12]

**3. Ensures stable, affordable rates are protected from unpredictable volatility [Sec. 7 and Sec. 15]**

- Arizona’s system provides stability by ensuring that rates are just and reasonable, as the Constitution requires, and not volatile and pegged to daily market fluctuations.

**X** Nothing about allowing consumers a choice caused power outages, and in fact, Texas’s utility-monopolies had more power-plant outages than competitive providers.  
 Source: International Ass’n for Economics, “The Texas Freeze Out: Power Systems, Markets and the Future,” p. 7.  
<https://www.bakerinstitute.org/media/files/files/bc261393/00-foss-online-texas-freeze-iaee.pdf>

**X** APS has proven time and again that the current monopoly system does not protect consumers or guarantee quality customer service. This is why 80% of Arizonans report they would like to be able to choose their electric provider.  
 See full polling at <https://choosewhoaz.com/polling>

**X** None of these protections require a monopoly structure and all can be delivered by competitive providers, including as conditions imposed by the ACC.

**X** Another misdirection in this “fact” sheet. This is purely a scare tactic. The ACC is required to approve a maximum range that competitive providers can charge.  
 “[T]Commission does not violate [the constitution] by permitting competitive market forces to set specific rates **within [an] approved range**” *Phelps Dodge Corporation v. Arizona Electric Power* 207 Ariz. 95 at 109.

<sup>3</sup> Matyi, Bob, “New York Launches formal review of competitive energy markets,” Platts, Dec. 6, 2016.  
<https://www.spglobal.com/platts/en/market-insights/latest-news/electric-power/120616-new-york-launches-formal-review-of-competitive-energy-markets>



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Traditional utility planning features investments in capacity that insulate customers from power outages and price volatility.

- In contrast, deregulation can lead to a lack of planning and investment in grid infrastructure, threatening the stability of an essential public service and exposing customers to volatile pricing.
- During the Texas winter crisis, customers experienced unfathomable spikes in their energy bills. One customer was reportedly billed over \$16,000 because of a single storm event last spring – 70x his normal bill!<sup>4</sup> And one electric cooperative was forced into bankruptcy because of the \$1.8 billion bill it received from the Texas grid operator.<sup>5</sup> Those costs are ultimately borne by the customers.
- In contrast to the experience of Texans, Arizona’s customers get the best of both worlds today. Through the utilities’ planning and investment practices, energy capacity is developed in advance to serve customers at affordable costs, while utilities also buy and sell on the open market when the market allows to keep costs down for customers.

Arizona has had two decades to see how deregulation or “market restructuring” over-promises and threatens economic stability. The 2000-2001 Enron market manipulation scandal caused California’s deregulation experiment to collapse, and the Arizona courts ultimately invalidated the Arizona Corporation Commission’s deregulation rules. Current and previously deregulated states are often short on energy capacity, and when their systems are stressed by heat or cold, they fail their customers and suffer disastrous ripple effects on families and businesses.

All the while, those systems cost customers more both during the crisis as well as over time. The *Wall Street Journal* reported that since 2004, Texas retail electric customers paid \$28 billion more for electricity than they would have in a traditional system.<sup>6</sup> That does not include the \$127+ billion in economic losses from the single event of the winter crisis.

**Arizona is thriving based on a strong grid that protects customers. Please support the Electric Reliability Act.**

<sup>4</sup> McDonnell Nieto Del Rio, Giulia, Nicholas Bogel-Burroughs and Ivan Penn. *The New York Times*, March 1, 2021. “His Lights Stayed on During Texas’ Storm. Now He Owes \$16,752.” Article can be accessed here: <https://www.nytimes.com/2021/02/20/us/texas-storm-electric-bills.html>

<sup>5</sup> Diaz, Jaclyn. National Public Radio, March 1, 2021. “Texas Energy Co-Op Files for Bankruptcy After Storm, High Bill.” Article can be accessed here: [Texas Energy Co-Op Files For Bankruptcy After Storm, High Bill: NPR](https://www.npr.com/2021/03/01/978888888)

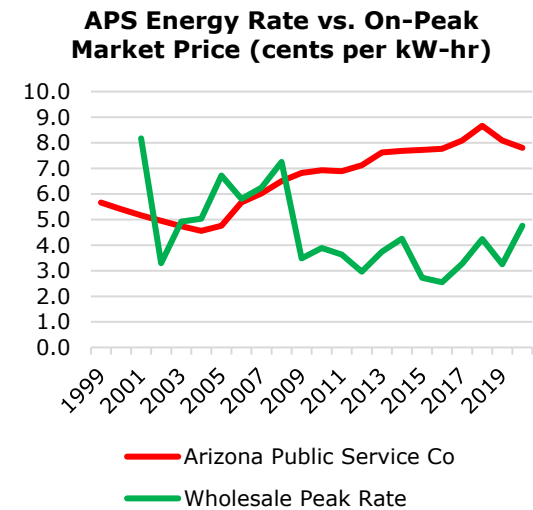
<sup>6</sup> McGinty, Tom and Scott Patterson. *The Wall Street Journal*, February 24, 2021. “Texas Electric Bills Were \$28 Billion Higher Under Deregulation.” Article can be accessed here: <https://www.wsj.com/articles/texas-electric-bills-were-28-billion-higher-under-deregulation-11614162780>



**X** The few customers that can currently self-supply their energy pay a fee to the utilities for reliability and future competitive providers as well. This is different than other states.

**X** This is a dishonest attempt to scare people. The ACC is required to set a maximum rate consistent with the Arizona Constitution. This can *never* happen in Arizona.

**X** Monopolies have continued to raise rates even as *peak* energy prices in the open market have declined. Historically, the market & utilities went back and forth on price advantage. But, since 2008, APS has never been a better deal than the market.



**X** Customers in the competitive market can and do sign fixed-rate deals. Meanwhile, Arizona monopolies have “adjusters” that fluctuate wildly. TEP is expecting a 350% increase in its fuel charge pass through and APS constantly raises its adjusters without thinking twice. <https://docket.images.azcc.gov/E000016382.pdf>

**X** False. After last year’s winter storm, customers captive to monopolies paid 3x-5x more in costs than customers served by competitive suppliers. Source: Intelometry, “Evaluating Customer Exposure to Price Spikes”. <https://www.nrg.com/assets/documents/energy-policy/Energy Choice Protecting Customers.pdf>

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