PERMANENT FILE C

STATE CERTIFICATION BOARD

STATE OF ARIZONA

RULES, REGULATIONS AND REQUIREMENTS GOVERNING PROCEDURE BEFORE STATE CERTIFICATION BOARD

November, 1948

SCB 1.6:R85/1948

Arizona. State Certification Board.

STATE CERTIFICATION BOARD

STATE OF ARIZONA

RULES, REGULATIONS AND REQUIREMENTS GOVERNING PROCEDURE BEFORE STATE CERTIFICATION BOARD

November, 1948

THIS DOCUMENT IS THE PROPERTY OF THE DEPARTMENT OF LIBRARY AND ARCHIVES — ARIZONA —
NUMBER 36001
RECEIVED MAR 17 1971

STATE CERTIFICATION BOARD RESOLUTION #2-48

A Resolution adopted by the State Certification Board, State of Arizona, dealing with revenue bond issues by the Arizona Power Authority pursuant to the Arizona Power Authority Act of 1944, as amended.

Preamble

WHEREAS, an agency of the State denominated "State Certification Board of the State of Arizona" was created and established by Ch. 149, Regular Session Laws, 1921. (Sec. 38, P. 359; R.C. 1928, Sec. 3416; Par. 75-447 ACA 1939), and

WHEREAS, said Act was amended with respect to jurisdiction, functions and personnel by Sec. 14 of the Arizona Power Authority Act of 1944, as amended, by House Bill No. 38, 18th Legislature, Second Special Session, 1947, whereby the Governor of the State of Arizona is made an ex-officio member and chairman of said Certification Board and whereby said Board as established consists of the Governor of the State of Arizona, the Attorney General, the State Engineer and the Superintendent of Banks, and

WHEREAS, said Act as amended provides that the Board shall be authorized to formulate, adopt and promulgate necessary rules of procedure, regulations for the conduct of its affairs and the discharge of its duties under said Power Authority Act, and

WHEREAS, a majority of the members of said State Certification Board of the State of Arizona have duly met pursuant to regular call of its Chairman for the purpose inter alia, of establishing and promulgating procedure, rules, regulations and requirements deemed necessary and essential for discharge of its duties in its consideration and action respecting proceedings on Revenue Bond Issuance within its jurisdiction.

NOW THEREFORE BE IT RESOLVED: THAT THE FOLLOWING RULES, REGULATIONS AND REQUIREMENTS SHALL GOVERN AND CONSTITUTE THE PROCEDURE ON HEARINGS AND BOARD ACTION RELATING TO AND RESPECTING ARIZONA POWER AUTHORITY REVENUE BOND MATTERS BEFORE THIS BODY, AND THE SAME ARE HEREBY PROMULGATED FOR THE GUIDANCE OF ALL CONCERNED:

RULES AND REGULATIONS OF THE STATE CERTIFICATION BOARD, STATE OF ARIZONA, GOVERNING HEARINGS AND ACTIONS RELATING TO AND RESPECTING ARIZONA POWER AUTHORITY BOND ISSUES.

I. REQUISITION - INITIATION OF PROCEEDINGS.

Requisitions for approval of the issuance of revenue bonds by the Arizona Power Authority, pursuant to the Arizona Power Authority Act of 1944, as amended, shall include and consist of:

(1) Petition signed by the Authority Commission Chairman and attested by the Authority Commission Secretary, under seal of the Authority, containing a concise statement of the kind and description of the proposed works, facilities or projects for which the Authority proposes to issue any revenue bonds; also statement of amount of bonds proposed for issuance, type and class of bonds, time and proposed method of issuance and sale; maximum rate of interest, and where pertinent, maximum engineering and or legal fees if any, proposed to be paid in connection with said bond issues.

(2) Requisitions may request approval of a bond issue comprehending an entire plan or system or for construction or acquisition of any single or joint project, section, station or other facility of any related electric system or plan proposed for ultimate integration and completion.

(3) Requisitions or documents and records in connection with any present or anticipated bond requisition may be filed simultaneously or seriatim. Provided that all pertinent records and

documents shall be filed not less than ten (10) days previous to the time set when and if a hearing is required and ordered.

(4) Upon permission of the Board, any documents, records, exhibits or other papers may be amended and refiled at least ten (10) days previous to the time set for final hearing.

(5) There shall be attached to said petition, or filed separately, the following exhibits:

(a) Certified copy of plan or program formulated for the practical, equable and economic utilization of electric power within the supervision and control of the Authority found necessary and adapted for the service of any community or territory of the State.

(b) Certified copy of finding by the Authority that all other practical methods, plans or procedure for financing of works or projects by said Power Authority after diligent investigation have been found inadvisable, inadequate and impractical and that the financing of such works or projects by the issuance of revenue bonds is necessary and for the best interests of the public.

(c) Certified copy of finding by the Authority that, after due consideration and investigation, that certain plan or program mentioned herein adopted by the Authority is necessary, feasible, unburdensome and economically sound; that the works, projects and facilities contemplated thereby and the whole, and all parts thereof, will be self-financing and liquidating within the period prescribed by said Power Authority Act.

(d) Certified copy of finding by the Authority that it holds power purchase contracts in accordance with the provisions of the Power Authority Act sufficient in the judgment of the Authority, to insure all necessary fiscal reserves, operation costs, maintenance and depreciation charges and payment of principal and interest of any bonds appertaining to or respecting any proposed plan or program, project or facility involved, within a period not exceeding forty years from date of bonds proposed for issuance.

(e) Engineer's report comprehending: (1) Engineering, economic and financial data related to any proposed bond issue; (2) Map of proposed locality or territory to be served; (3) Where practical and essential to complete any requisition, pertinent drawings, plans and outlines illuminating proposed project, works or facilities; (4) Such calculations, summaries and information as the Authority may deem helpful to an understanding of the requisition filed.

II. HEARING DATES AND SETTINGS.

(1) The time and place of hearings or conferences shall be fixed by the Board Chairman within not less than twenty nor more than thirty days after the filing thereof.

(2) Prehearings respecting any particular document, feature, incidental matter or any separable part or portion of any requisition may be ordered and held whenever the holding of such

prehearings shall be deemed by said Board conducive to the expediting of a final hearing.

(3) Hearings may be adjourned or continued from time to time where in the opinion of the Board the facts and circumstances justify.

(4) The Chairman may fix a time and place for any conferences between the Board and the Authority respecting proposed bond issues within the time provided for the calling of Board meetings and without any previous notice or formal setting of such conferences.

III. NOTICES, PUBLICATIONS AND APPEARANCES

(1) Upon the filing of requisition for approval of proposed bond issue and the fixing of the time and place of hearing the Authority shall cause to be published twice in some newspaper of general circulation in the State, notice of the filing of such requisition and the time and place fixed for the hearing thereon and shall thereafter file proof of such publication.

(2) Except in cases where qualified third parties, as defined herein, are entitled to be heard, no publication notice of pre-hearing shall be required. Where there are qualified third parties entitled to be heard, those shall be notified in writing ten (10) days previous to said hearing unless said parties shall waive the giving of notice of the time of hearing.

(3) Notice of Hearing shall be substantially as follows:

BEFORE BOARD OF CERTIFICATION OF THE STATE OF ARIZONA

In The Matter Of The Application of the Arizona Power Authority for issuance of revenue bonds pursuant to Arizona Power Authority Act, 1944, as amended.	NOTICE OF HEARING

TO WHOM THIS NOTICE MAY CONCERN:

Notice is hereby given that a Hearing will be held in the above entitled matter at the office of the State Certification Board of the State of Arizona at its office in the Capitol Building, Phoenix, Arizona, at ____A.M., _____ ___, 19__.

STATE CERTIFICATION BOARD,
STATE OF ARIZONA

By_____
Secretary

(4) The Arizona Power Authority and any other parties or persons entitled to be heard at any hearing, in addition to the Arizona Authority, the following persons may appear and appearances may be in person or by representative:

(a) Any person holding an original effective proposal or agreement made with the Power Authority relating to or concerning the handling, sale, control or disposition of proposed issuance of Authority Revenue Bonds;

(b) Any person who shall have previously made an offer or bid in good faith for the purchase of Authority bonds pursuant to and in accordance with any published invitation for bids by said Authority; (c) Any distributor holding completed effective contract with the Arizona Power Authority for electric power service to

be directly served over an identified transmission line or other facility proposed by the Authority, who shall have filed an appearance before this Board not less than ten (10) days previous to date of hearing, setting forth a sufficient special interest as described by this paragraph.

IV. JURISDICTION OF BOARD

(1) The basis of jurisdiction of the State Certification Board of the State of Arizona shall be as declared by paragraph 75-447 ACA, 1939, as amended by House Bill No. 38, 18th Legislature, Second Special Session, 1947, amending Section 14 of the Arizona Power Authority Act of 1944, as amended.

(2) Matters within the jurisdiction of the Arizona Power Authority, as prescribed by the Arizona Power Authority Act of 1944, as amended, and the Authority Rules of Practice and Procedure adopted thereunder by said Power Authority Commission, shall be observed by this Board - including but not limited hereby, to Sections 3, 5, and 14 of said Act and "the jurisdiction of the Authority over the matters entrusted to it shall be exclusive, and its findings of fact, if supported by a preponderance of the evidence and not arbitrary, capricious or unreasonable, shall be conclusive."

(3) The jurisdiction of the Board, if the facts and circumstances justify, shall extend to:

(a) Subsections "(a)", "(b)" and "(c)", Section 4, Article III hereof, if the allegations of the appearance

statements filed by parties entitled to enter an appearance, warrant consideration by this Board.

(b) The adequacy, weight and sufficiency of the requisition contents to meet compliance with the required allegations of such requisitions.

(c) The adequacy and sufficiency of required exhibits to comply with the requirements respecting same.

(d) The adequacy, weight and sufficiency of any other proof which the Authority may elect to offer in support of its requisition.

V. WITNESSES, EVIDENCE AND PROOF

(1) Pursuant to Section 2 of the Arizona Power Authority Act, 1944, and the Statutes of Arizona - particularly Par. 23-305 ACA, 1939, official exhibits, findings, declarations and documents of the Arizona Power Authority, duly certified by its Chairman and Secretary and under its seal, prescribed or required under requisition procedure, shall be received as prima facie evidence of the relevant recitals, facts, matters and things therein contained.

(2) The hearing of evidence and receipt of proofs shall be confined to the matters and things within the jurisdiction of the State Certification Board.

(3) Evidence, depositions, attendance of witnesses and subpeoneas shall be governed by Articles IV, V, and VI, "Rules of Practice and Procedure" of the Arizona Power Authority, modified to meet the requirements of these regulations and the conduct of these hearings.

(4) Stenographic record of hearings may be had when ordered by the Board pursuant to request of the Authority, or a duly

DEPARTMENT OF LIBRARY AND ARCHIVES ARIZONA

qualified party, under Article III of these Rules. The person requiring such stenographic report shall arrange for same and shall be responsible for all charges and costs in connection therewith.

VI. CONDUCT OF HEARINGS

Hearings before theBoard shall proceed as follows:

(1) Unless waived by the Board, the Authority shall cause its requisition to be read and shall thereupon offer such exhibits as may be necessary under requisition requirements.

(2) The Authority may make such statement or offer such other proof as it may deem necessary in support of its requisition.

(3) Qualified parties under "(a)", "(b)", or "(c)" of Section 4, Article III hereof may thereupon offer such proofs as are pertinent, relevant and material in support of the warranted allegations of their various or respective statements previously and duly filed with the Board.

(4) Any qualified party entitled to appear, who may question the adequacy, weight or sufficiency of any proofs presented by the Authority, shall carry the burden of proof.

(5) The Authority shall have the right to offer any matters in rebuttal which it may deem necessary or advisable and shall have the right to open and close hearing proceedings.

VII. FINDINGS, JUDGMENTS, DECISIONS, ORDERS

(1) If by said requisition, exhibits and hearing, the Board finds:

(a) That the Authority, pursuant to Section 5 of the Power Authority Act, has duly adopted a plan for the practical, equable and economical utilization of all or any estimated portion of the electric power placed in its supervision and control;

(b) That the Authority, pursuant to Section 14 of said Act has found it necessary, convenient and advisable to issue Authority revenue bonds to carry out said plan or program and that other financing methods or procedure are inadvisable, inadequate or insufficient for the accomplishment of any transmission lines, project, work or facility contemplated by said plan;

(c) That pursuant to Section 4 of said Power Authority Act said Power Authority, after due consideration and investigation, has determined and found that said plan or proposal is feasible, economical and sound; and

(d) That said plan or program with its works, projects and facilities will be self-financing and self-liquidating within a period of not more than forty years;

(e) That pursuant to Sections 3 and 14 of said Power Authority Act the Authority has found that it has, previous to the date set for hearing, completed plans, contracts or arrangements for securing electric power and procured purchasers for electric power proposed

to be sold, furnished, wheeled or handled under said proposed plan or program, in accordance with the provisions of said Act, adequate in the judgment of the Authority to insure all necessary fiscal reserves, operation costs, maintenance and depreciation charges, and payment of principal and interest of any bonds appertaining to or respecting said proposed plan or program, and the projects and facilities contemplated thereby;

(f) That all conditions precedent required by said Power Authority Act have been fulfilled, and;

(g) That the bond requisition as filed by the Authority, and the exhibits or any proof offered in support of said requisition, meet the requirements of said Arizona Power Authority Act and of these Rules and Regulations, then this Board shall approve said proposed bond issue or issues as prayed for in such requisition.

(2) If the Board finds that any essential part, feature or allegation of said requisition has not been sustained by said requisition and by the exhibits or proofs offered in support thereof, such insufficient or incomplete part or portion of said requisition may be tentatively denied or disproved pending further action by said Arizona Power Authority.

(3) If the Board finds that no substantial part of said requisition meets essential requirements or is not sustained,

either by exhibits or proof offered in support thereof, and no justifiable reasons for amendments are offered by the Authority, it may disprove said requisition in its entirety.

(4) The rejection of any document or report, or the contents thereof, or the rejection of an entire requisition shall not preclude the filing of an amended requisition and amended documents, reports, statistics, plans, maps or other records, or the subsequent consideration of any amended or altered bond proposal.

(5) On final conclusion of the hearing the Board shall make and enter its findings in writing and shall make and enter such orders and render such judgments and decisions as may be necessary to carry out said findings and to express and grant approval of and for said proposed bond issues.

VIII. COSTS

Upon conclusion of proceedings under any requisition filed by the Authority the Secretary shall bill said Authority for the costs of any stenographic services requested and any publications or notices published or made in behalf of the Authority; or the Authority may make such payments direct to the parties concerned.

IX. AMENDMENTS

These Rules and Regulations may be amended - without prejudice to matters relating to any pending requisition or hearing, at any meeting of this Board by majority vote thereof;

or by vote of three members of said Board at any regular or special meeting on ten (10) days previous written notice of proposed amendment.

PASSED AND ADOPTED this ____ day of November, 1948.

_____
Chairman

ATTEST:

_____
Secretary

* ** 000 ** *

C E R T I F I C A T E

I HEREBY CERTIFY that at a regularly assembled and duly called meeting of the members of the State Certification Board, State of Arizona, held at its office at _____ _____, Phoenix, Arizona at ___ . M. on the ___ day of November, 1948, at which meeting all duly qualified members were present, the above and foregoing Rules and Regulations were unanimously approved, passed and adopted and regularly filed in the Records of the State Certification Board.

_____
Secretary