

OPEN MEETING AGENDA ITEM  
ORIGINAL



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**COMMISSIONERS**  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES



**ARIZONA CORPORATION COMMISSION**

Direct Phone No.: 602-542-3933  
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*clome*

April 20, 2006

Chairman Jeff Hatch-Miller  
Commissioner William Mundell  
Commissioner Mike Gleason  
Commissioner Kris Mayes

RE: Arizona Public Service, Docket No. E-01345A-06-0009

Dear Colleagues and Parties:

I am re-docketing an email sent to me by Mr. Steven Fetter in order to make the record complete and clear. Although the e-mail is dated March 22, 2006, my staff did not open and read the message until April 19, 2006<sup>1</sup>. The reason for the timing is my staff and I were unaware of any messages in an email account that had been titled spitzer-web@azcc.gov.

While the email appears innocuous as to its content, it is a communication from a party in a contested hearing that is not procedural in nature to a Commissioner that was not part of the public record. While the communication does not appear to address "substantive merits of a contested hearing", the spirit of Arizona Administrative Code R14-3-113 certainly requires disclosure.

I do not believe that Mr. Fetter meant to violate any Commission rule, including the ex parte rule, as his email tries to remedy an "ex parte" communication by also sending the message to Chairman Hatch-Miller. Therefore, I do not believe any sanctions are necessary. However, I would remind the parties that if they are represented by an attorney(s) then all communication to the Commission should be routed through the attorney(s), and that in order to avoid any appearance of impropriety all communications should be sent to all Commissioners and each party in the proceeding.

Very truly yours,

Marc Spitzer  
Commissioner

cc: Docket Control  
Parties on Record

Enclosure:

RECEIVED  
2006 APR 20 11:12:24  
AZ CORP COMMISSION  
DOCUMENT CONTROL

<sup>1</sup> I was out of state on April 19, 2006 and was not made aware of the e-mail until today. Upon reading the e-mail, my staff immediately docketed the message on April 19, 2006.

**Betty Camargo**

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**From:** regunf@comcast.net  
**Sent:** Wednesday, March 22, 2006 4:37 PM  
**To:** Spitzer-Web  
**Cc:** Hatch-WebEmail  
**Subject:** Professor L. Hart Wright

Dear Commissioner Spitzer:

I wanted to clarify a comment I made today having nothing to do with the pending APS fuel case.

During our joking about Professor L. Hart Wright, I mentioned that he wouldn't care now. By that comment, I meant that he wouldn't care because, notwithstanding my grade in his course, I had never entered the tax world - but I realized immediately that it could also come across as meaning that Professor Wright wouldn't care because he had passed away. I did not mean the statement in such a crass way -- and apologize if it seemed like that.

Sincerely,

Steve Fetter

PS -- I am copying Chairman Hatch-Miller on this message so as to ensure that I am not violating any ex parte rules.