

Sheila Stoeller

OPEN MEETING AGENDA ITEM



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**From:** Giancarlo Estrada  
**Sent:** Tuesday, June 29, 2010 9:55 AM  
**To:** Sheila Stoeller  
**Cc:** Kristin Mayes  
**Subject:** FW: Solar service agreements  
**Attachments:** ACC.Solar.provider.Final.docx

E-20690A-09-0346

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ORIGINAL

**From:** Le Templar [mailto:LTemplar@goldwaterinstitute.org]  
**Sent:** Tuesday, June 29, 2010 9:52 AM  
**To:** Giancarlo Estrada  
**Subject:** Solar service agreements

Hi Adviser Estrada:

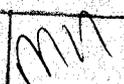
Attached is a guest opinion piece that Clint Bolick has submitted to the Arizona Republic regarding the regulation of Solar Service Agreements on behalf of the Goldwater Institute. In light of the pending hearing on the issue in case No. E-20690A-09-0346, we wanted to provide this to you for your review. If appropriate, please have this item entered in the docket of this case.

Thanks for your consideration, and let me know if you have any questions.

Le Templar  
Communications Director  
Goldwater Institute  
(602) 462-5000, ext. 228  
[www.goldwaterinstitute.org](http://www.goldwaterinstitute.org)  
500 E. Coronado St.  
Phoenix, AZ 85004  
Follow us on Twitter: @GoldwaterInst

Arizona Corporation Commission  
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JUN 29 2010

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## **Many sides agree: Solar service providers shouldn't be regulated as utilities**

By Clint Bolick

The Goldwater Institute and the Arizona Corporation Commission have sharply disagreed about the agency's mandate for renewable energy standards in this state. However, we hope to find common ground on an upcoming issue that hits at the nexus between the speedy implementation of solar energy and use of the free market. The Corporation Commission can promote solar energy without using government mandates or forced requirements. All the commission needs to do is get out of the way.

The question at hand is whether the Corporation Commission should step in and regulate businesses that harness the creativity of the free market to provide a unique form of financing known as a solar service agreement. These deals allow customers to get access to solar energy with no upfront costs. Nonprofit groups including schools benefit the most from solar service agreements and can save millions of dollars.

A Corporation Commission administrative law judge has recommended that solar providers that offer equipment through service agreements should be regulated as utilities. This flies in the face of simple logic. Solar service providers are nothing like utilities and the public certainly does not need to be protected from an industry that continues to drive down prices while providing customers with hundreds of choices.

When you think of a regulated utility, you think of a large electric company that provides the power we all need to keep our lights on and our homes cool. The solar service provider amounts to nothing more than an equipment rental service. There is a substantial difference between the essential nature of the electricity that is provided by only one utility and equipment rentals provided by hundreds of companies – no one needs to install solar equipment while everyone needs electricity.

Regulating the providers of optional solar equipment merely because that equipment is related to electricity, as the administrative judge has suggested, is not a far cry from regulating each person who owns energy efficient appliances or batteries merely because those are related to electricity, too.

The obviousness of the folly of such regulation has brought together a diverse group of people to oppose the administrative judge's ruling. The Goldwater Institute's position on this issue has been echoed by the Sierra Club, the Solar Alliance, sports franchises, public school districts and individual left-leaning political activists. These varied interests all agree that regulating solar service providers would harm the growing solar industry and that would be directly contrary to the Corporation Commission's own goals.

Both ACC Chairwoman Kris Mayes and Commissioner Gary Pierce have filed proposals to overturn the administrative judge's ruling. The entire Corporation Commission should join their colleagues to stay within their constitutional authority and allow the private market for solar energy to thrive without further government interference.

Clint Bolick is director of the Goldwater Institute Scharf-Norton Center for Constitutional Litigation.