

ORIGINAL

W-02199A-11-0329
W-02199A-11-0330



Teresa Tenbrink

OPEN MEETING AGENDA ITEM

From: Susan Bitter Smith on behalf of BitterSmith-Web
Sent: Friday, May 03, 2013 12:00 PM
To: BitterSmith-Web; [REDACTED]
[REDACTED]
Subject: RE: Interesting Way to Pay Taxes on Utility Company Dividends.

Mr. Glueck,

It appears my office provided erroneous information regarding the status of the matters which were the subject of your initial inquiry. They are in fact, still pending. Accordingly, I will not be able to discuss with you the specific details of the dockets W-02199A-11-0329 and SW-02199A-11-0330. As you can see this is an example of the exact difficulties that surround the Ex Parte rules. I trust that the information provided regarding the Commission's policy statement will be helpful to you.

After the conclusion of the proceedings in these dockets, please feel free to contact me regarding them.

Thank you,
Susan Bitter Smith
Commissioner
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007
(602) 542-3625

Arizona Corporation Commission
DOCKETED

MAY 9 2013

DOCKETED BY [Signature]

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ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

From: Susan Bitter Smith **On Behalf Of** BitterSmith-Web
Sent: Thursday, May 02, 2013 1:10 PM
To: [REDACTED]
Subject: RE: Interesting Way to Pay Taxes on Utility Company Dividends.

Mr. Glueck,

Now that the matters which were the subject of your inquiry (W-02199A-11-0329 and SW-02199A-11-0330) are now concluded, I am no longer constrained by the Commission's ex parte rules, and can respond to your concerns more fully. As my office explained, the ex parte rule strictly prohibits the Commissioners from engaging in discussions regarding pending contested matters. The rule is set forth in A.A.C.R-14-3- 113.
http://www.azsos.gov/public_services/Title_14/14-03.htm and I have included the provisions of the rule below, in the event you wish to make the information available to other interested persons.

R14-3-113. Unauthorized communications

- A. Purpose. It is the purpose of this rule to assist the members of the Arizona Corporation Commission and its employees in avoiding the possibility of prejudice, real or apparent, to the public interest in proceedings before the Commission and hearings before the Arizona Power Plant and Transmission Line Siting Committee.
- B. Application. The provisions of this rule apply from the time a contested matter is set for public hearing before the Commission and from the time a notice of siting hearing is published pursuant to R14-3-208(A). The provisions of this rule do not apply to rulemaking proceedings.
- C. Prohibitions.
 - 1. No person shall make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding or siting hearing to a commissioner or commission employee involved in the decision-making process for that proceeding or siting hearing.

2. No commissioner or commission employee involved in the decision-making process of a contested proceeding or siting hearing shall request, entertain, or consider an unauthorized communication concerning the merits of the proceeding or siting hearing.
3. The provisions of this rule shall not prohibit:
 - a. Communications regarding procedural matters;
 - b. Communications regarding any other proceedings;
 - c. Intra-agency or non-party communications regarding purely technical and legal matters;
 - d. Comments from the general public;
 - e. Communications among hearing officers, non-party staff and commissioners.

D. Remedy.

1. A commissioner or commission employee who receives an oral or written offer of any communication prohibited by this rule must decline to receive such communication and will explain that the matter is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient will advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made, will be prepared, and the statement will be filed in the public record of the case or proceeding.
2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.
3. If a party to a contested proceeding or siting hearing makes an unauthorized communication, the party may be required to show cause why its claim or interest in the proceeding or siting hearing should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.

You specifically asked about my position regarding "how taxes on utility dividends will be paid". My detailed position is set forth in Attachment 1 to Decision 73739 in Docket W-00000C-06-0149 which is posted at <http://images.edocket.azcc.gov/docketpdf/0000142958.pdf> For your convenience and in the event you wish to make the information available to other parties, I have attached a copy of the policy, which I support, as evidenced by my signature on the Decision. If you have any other questions, please do not hesitate to contact me. I regret I was unable to respond to your concerns initially, but after you review the provisions of the ex parte rule, I hope you understand the restrictions on my conversation with interested constituents, such as yourself.

Thank you,

Susan Bitter Smith

Commissioner

Arizona Corporation Commission

1200 W. Washington

Phoenix, AZ 85007

(602) 542-3625

From: JAMES G GLUECK [REDACTED]

Sent: Wednesday, May 01, 2013 5:12 PM

To: BitterSmith-Web; [REDACTED]

Subject: RE: Interesting Way to Pay Taxes on Utility Company Dividends.

I sent the following to Ms. Bitter-Smith, a Commissioner on the Arizona Corporation Commission and all the Commissioners, asking a simple question on whether she, or them, supported the initiative to have utility users, like you and me, pay a surcharge each month on our electric and water utility bills, to cover the costs of taxes on dividends earned on investments in the Utility companies by investors. In other words, taxes on dividends earned by investors will be paid by utility company users and not the investors who earned the dividends and who own the tax liability, if this is ok'd by the Arizona Corporation Commission.

Seems like a pretty straight forward question that should get a straight forward answer, but..... check out the response I received from Commissioner Bitter-Smith's office.

As I say, elections matter, and in the case of the last election, it really matters that this bunch of Commissioners were elected.

Jim Glueck

From: bittersmith-Web@azcc.gov

To: [REDACTED]

Date: Fri, 19 Apr 2013 12:16:50 -0700

Subject: RE: Interesting Way to Pay Taxes on Utility Company Dividends.

I understand your concern. However, the Commissioners are required by law to not comment on or communicate about cases because of "Ex Parte" rules. Ex parte means communications about a matter, which do not include ALL the parties. Commissioner Bitter Smith and her colleagues sit as judges and must weigh all the facts of a case and are prevented from speaking to the issue before all the evidence is heard.

Commissioner Bitter Smith values public input and comments concerning matters that come before the Commission for a decision. However, her final decision will not be made until the open meeting.

Thank you for being part of this important process.

Teresa Tenbrink
Executive Aide to Commissioner Susan Bitter Smith
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007
(602) 542-3625

From: JAMES G GLUECK [REDACTED]

Sent: Friday, April 19, 2013 11:51 AM

To: BitterSmith-Web

Subject: RE: Interesting Way to Pay Taxes on Utility Company Dividends.

Thank you for your response. But all I was asking was if my understanding of how the Taxes on Utility Dividends would be paid is the official position of Commissioner Susan Bitter-Smith, and the other Commissioners. Straightforward question that deserves a straightforward answer, don't you think?

Thank you.

James Glueck

From: bittersmith-Web@azcc.gov

To: [REDACTED]

Date: Wed, 17 Apr 2013 15:34:11 -0700

Subject: RE: Interesting Way to Pay Taxes on Utility Company Dividends.

Dear Mr. Glueck,

I am the executive assistant to Commissioner Susan Bitter Smith. I am responding to you at the direction of Commissioner Bitter Smith. We received the email you sent, and take your concerns very seriously. Your email regarding the Pima Utilities will be placed on file with the Docket Control Center of the Arizona Corporation Commission ("Commission") to be made part of the record. The Commission will consider your comments before a decision is rendered in the Pima Utilities application.

The concerns raised in letters received from customers will assist the Commission in the investigation and review of the application. The Commission's independent analysis of the utility and its application attempts to balance the interest of the utility and its customers.

Commission Staff are very sensitive to the burden that high utility rates can place on the consumer, and though constitutionally required to allow a fair return to the utility, does everything within its authority to protect the consumer.

You can track the case's activity and progress by visiting the Commissions' e-Docket website, <http://edocket.azcc.gov/edocket/>, and entering the docket numbers W-02199A-11-0329 and SW-02199A-11-0330. They are consolidated numbers. We appreciate your comments and the interest taken on the proposed application.

For more information and clarity, I've attached a document that will hopefully clarify any questions. <http://images.edocket.azcc.gov/docketpdf/0000140814.pdf>

Sincerely,

Teresa Tenbrink
Executive Aide to Commissioner Susan Bitter Smith
Arizona Corporation Commission
1200 W. Washington
Phoenix, AZ 85007
(602) 542-3625

From: JAMES G GLUECK [REDACTED]
Sent: Wednesday, April 17, 2013 2:30 PM
To: Burns-Web; RBurns-Web; Pierce-Web; BitterSmith-Web; Stump-Web; JAMES G GLUECK
Subject: Interesting Way to Pay Taxes on Utility Company Dividends.

I have learned that the costs of the taxes on the dividends distributed to investors of the Utility Companies will be paid in an unusual manner. My understanding is the you, the Arizona Corporation Commission, are making the recommendation that the Utility Companies charge their customers an additional \$0.33 per month in water rates, and \$0.33 per month in electrical rates, to cover the costs of the taxes that must be paid on interest earnings by investors in the Utility Companies. In other words, we, the users of the utilities in the State of Arizona, will pay the tax burden on interest earned by the investors in the Utility Companies.

Can you all please verify this as your Official position on this issue.

I await your response.

Thank you.

James Glueck
[REDACTED]
Sun Lakes, AZ 85248
[REDACTED]