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May 5, 2014  
ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

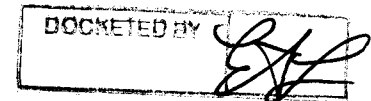
Arizona Corporation Commission (ACC)  
Docket Control Center  
1200 West Washington Street  
Phoenix, Arizona 85007

Arizona Corporation Commission  
DOCKETED

MAY 06 2014

Re: Docket # E-01345A-14-0113

ORIGINAL



Ladies and Gentlemen;

APS has requested that my formal fraud complaint against them (docketed here: <http://images.edocket.azcc.gov/docketpdf/0000152743.pdf>) be dismissed since, according to them, I have not been "damaged" by their fraudulent "Myth vs Fact" sheet. As if they were trying to sell something, the APS lawyers repeat that over and over in their response. Displaying their legal prowess, they even cite some past court decisions. There's just one problem with their argument: the law itself.

It doesn't get much clearer than this. Pay attention to the highlighted part. Ask yourselves if you are going to enforce Arizona law as written, or Arizona law as botched in some previous decision.

**44-1522. Unlawful practices; intended interpretation of provisions**

A. The act, use or employment by any person of any deception, deceptive or unfair act or practice, fraud, false pretense, false promise, misrepresentation, or concealment, suppression or omission of any material fact with intent that others rely on such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise **whether or not any person has in fact been misled, deceived or damaged thereby**, is declared to be an unlawful practice.

According to the law as written, it does not matter whether I have been damaged or not. That's why I did not waste my or anyone else's time on that point in my complaint. The law is clear. All that matters is whether or not APS is engaged in fraud, deception, misrepresentation and etc.

With that in mind, the APS lawyers' assertion that my complaint should be dismissed because I did not follow Rule 12(b)(6) and Rule 8(a) of the Arizona Rules of Civil Procedure regarding stating claims for relief is spurious.

The APS lawyers' argument that my complaint should be dismissed because I did not follow Rule 8(e) is ridiculous, and it looks to me like they are scrambling for any technicality to avoid having to address the fraud statute violation. In my opinion, my complaint is in fact "simple, concise, and direct" as required by Rule 8(e).

Likewise, the APS lawyers' contention that my complaint should be dismissed because I did not follow A.A.C. R14-3-101(A), 106, 107 appears to be more technical weaseling on their part. The reason why my complaint did not follow the Administrative Code to the letter is explained in my April 3<sup>rd</sup> communication to the ACC (in the docket here: <http://images.edocket.azcc.gov/docketpdf/0000152284.pdf>). Briefly, the blame for my not filling out the proper paperwork lies with Mr. Martinez and Mr. Olea of the ACC and the lack of instructions at the ACC website.

Incredibly, the APS lawyers said that even if APS was lying about their "smart" meters it doesn't matter since they aren't selling meters.

From the APS lawyers: "The statements made in the Fact Sheet, even if they were false (and they are not), do not relate to the sale or advertisement of APS's services or any merchandise."

Of course the statements made in the sheet relate. If they didn't then why would APS be making them? Why would APS mail the statements to ratepayers and post them at their website?

The APS lawyers tried to create a distinction between APS meters and APS "services" and "merchandise". To that end, the APS lawyers wasted much ink and paper repeating that APS does not sell meters. The APS lawyers even included a sworn statement from an APS employee who also stated that APS does not sell meters. The APS lawyers labeled the statement (in enormous bold font) the very important sounding "Exhibit A".

From the APS lawyers: "Put simply, there is no allegation in the Complaint that the Fact Sheet has anything at all to do with the sale or advertising of APS's services."

Of course I made no allegation of that. Why state the obvious? Aren't meters part and parcel of APS's service and merchandise? How else would they sell electricity? And hasn't APS been promoting what a great service "smart" meters provide to ratepayers? You know they have! As proof I offer the letter and door-hanger distributed to Payson

ratepayers prior to "smart" meter installation there. The letter and door-hanger are enclosed. They are hymns of praise to the "smart" meter, extolling all the wondrous things they will do for ratepayers. APS is selling "smart" meters as part of their service and merchandise.

In case the APS lawyers' dismissal request is not granted, they attempted to answer my debunking of their "Myth vs Fact" sheet. Their answers are pitifully inadequate. Sadly, some of the answers are just more fraud. It seems APS simply cannot stop misleading and misrepresenting.

Can it really be true that the two lawyers who wrote the response to my complaint have no idea what antenna/transceiver siting rights are? Can it really be true they could not figure it out based on what I wrote?

Let me put siting rights another way then. If employees of a telecommunication company came and put a microwave radio transceiver on someone's private property, the company's employees could be arrested for trespass. In order to avoid breaking the law, the company would first have to negotiate an agreement with the property owner. Why? Because the property owner has siting rights by virtue of the fact of being the property owner.

As I explained in my complaint, APS's pattern of deception began with misleadingly calling their antennas and transceivers "meters". Yes, the devices have metering capabilities but they are also utility networking equipment, installed for the purpose of moving data from other locations to implement the utility's business plan. Essentially, APS is building their own private communications network and using the private property of ratepayers on which to do so. APS does not have easement for a communications network.

Note how often (in just 10 double spaced pages) the APS lawyers mention that the devices measure electricity. Since the APS lawyers have omitted mentioning all the other functions of the devices, one might think that's all the devices do.

From the APS lawyers:

"The automated meter discussed in the Fact Sheet is used as a tool to measure electricity usage by APS customers." (This sentence appears twice.)

"APS ... uses automated meters to measure how much energy a customer uses."

“The APS automated meters are used to measure how much energy a customer uses.”

Of course all that's true – but only by half. The APS lawyers have omitted material facts. In reality, the devices do a great deal more than measure electricity usage.

Also, in what seems like a non sequitur, in the sentence after the one in which the APS lawyers said they cannot determine what I am alleging regarding siting rights or what siting rights are, they wrote, “ APS alleges that its automated meters do not have the capability of monitoring customer actions and do not store or transmit any personal identification information.”

The fact that “smart” meters are surveillance devices is a separate issue from APS trespass and theft of property to build their communications network. Be that as it may, do the APS lawyers really think that all they have to do is deny?

Again, I offer the Congressional Research Service's 45 page report, *CRS Report for Congress, Prepared for Members and Committees of Congress, Smart Meter Data: Privacy and Cybersecurity* (here: <http://www.scribd.com/doc/84773482/Smart-Meter-Data-Privacy-and-Cybersecurity-2-3-2012>).

From the CRS report: “By examining smart meter data, it is possible to identify which appliances a consumer is using and at what times of the day, because each type of appliance generates a unique electric load “signature.””

APS denials do not change the CRS conclusions.

In addition, I believe the APS lawyers' assertion that “... its automated meters do not have the capability of monitoring customer actions ...” to be more deceptive language, more omission of material facts, and half-truth. The meters may not have monitoring capability but NILM software does. Non-Intrusive Load Monitoring technology (NILM) is a software application that includes an algorithm that is able to analyze load profiles and identify specific signatures of appliances and electrical devices used in the home. This software would be a back-end application that could be used by anyone – the utility, a hacker, marketers, law enforcement, criminals, NSA, or any other third party – who gets hold of the data stream transmitted by a “smart” meter.

Computerworld just published a short, informative article on NILM entitled *The Internet of Things could encroach on personal privacy, White House report on IoT describes electrical devices with unique signatures that can tell a lot*. The article is here: [http://www.computerworld.com/s/article/9248086/The\\_Internet\\_of\\_Things\\_could\\_encroach\\_on\\_personal\\_privacy](http://www.computerworld.com/s/article/9248086/The_Internet_of_Things_could_encroach_on_personal_privacy).

And again, as I pointed out in my complaint, of course APS “smart” meters transmit “personal identification information”. If they didn't, how would APS know who to bill?

In defense of APS's “Myth vs Fact” sheet statement that “Automated meters are safe”, the APS lawyers wrote:

“APS alleges that there are numerous studies establishing the safety of its automated meters and has filed those studies in the Commission’s generic Docket No. E-00000C-11-0328. Indeed, research has established that APS’s automated meters transmit a smaller amount of radio frequency than most household appliances, such as cell phones, toasters, baby monitors, computers, etc.”

The studies APS submitted to docket E-00000C-11-0328 have been thoroughly debunked by myself and many others who have submitted responses to the docket regarding APS's junk science promotion.

For example, the CCST report APS submitted is so intellectually dishonest that contributors to the report whose findings did not support the conclusion that “smart” meters posed no health threat were still listed as contributors even though their contributions were not included.

One study in particular that APS submitted, the one from Maine CDC, was such a total piece of junk science that I wondered at APS's grasp on reality for having submitted it. I was able to get the internal email correspondence of the people involved in the report. It's clear they had no idea what they were doing or how “smart” meters and the mesh network even functioned. All the unpleasant and scandalous details are at docket # E-00000C-11-0328 here: <http://images.edocket.azcc.gov/docketpdf/0000146483.pdf>.

Additionally, I and many others have submitted study after study – many more than APS – that show “smart” meters are unsafe. People whose health has suffered as a result of “smart” meters have submitted their tragic personal experiences and testified at ACC meetings. Further, various county and local jurisdictions in California have issued moratoriums and resolutions against “smart” meters due to health and safety concerns. And in Arizona some jurisdictions have requested a community-wide right of “smart” meter refusal until safety has been proved.

One can only speculate as to why the APS lawyers would so blatantly discredit themselves with their assertion that “... APS’s automated meters transmit a smaller amount of radio frequency than most household appliances, such as cell phones,

toasters, baby monitors, computers, etc.”.

I already supplied information disproving APS's “Myth vs Fact” sheet claim that “smart” meters emit less microwave radiation than a cell phone. “Smart” meters actually emit more. Once again, that study is here:

<http://www.ccst.us/projects/smart2/documents/letter8hirsch.pdf>.

As for toasters, one wonders on what radio frequency the APS lawyers' toasters are transmitting. I have a Gigagertz Solutions HF35C microwave analyzer, a professional quality instrument for measuring microwave emissions in the frequency range in which “smart” meters transmit. I could stand in front my toaster, turn the HF35C on, aim it at my toaster and let it run until the battery drained and I would not get one iota of microwave signal from my toaster, whether the toaster was on or off because toasters do not emit radio frequency! My ethernet wired desktop computer is another device that I could measure until the battery drained and not get a peep out of. In short, APS is misleading and deceiving once again.

APS is incorrigible. By comparing “smart” meters to other, voluntarily used gadgetry that do in fact emit microwaves, the APS lawyers are perpetuating the very type of deception I mentioned in my complaint. They are using ratepayers' familiarity with other microwave emitting devices in an attempt to justify one more being parked at ratepayers' homes and places of business – but the 'one more' is owned by APS and not chosen voluntarily by the ratepayer. It's as if APS is saying, “Hey, what's a little more amongst friends?” – except it's a lot more and we aren't friends.

Exacerbating APS's apples and oranges misleading mismatch is chronic exposure. “Smart” meters are emitting microwave radiation 24/7/365. The other devices only do so when in use which is intermittent. For example, I don't know anyone who sleeps with their microwave oven turned on in their bedroom, yet many people have a “smart” meter transmitting non-stop on their bedroom wall, and sometimes many more than one “smart” meter if they live in an apartment next to a bank of meters.

It is worth mentioning that the APS lawyers chose to completely ignore the fact that I provided video proof of their “smart” meters transmitting 432% stronger than what APS claims in their bogus “Myth vs Fact” sheet (see the proof here: [http://www.youtube.com/watch?v=z\\_TLCd3Litg](http://www.youtube.com/watch?v=z_TLCd3Litg)). Page 2 of the Myth vs Fact sheet (enclosed) contains the outright lie that APS “smart” meters transmit at .0009 milliwatts per centimeter squared at 10 feet away. But the APS lawyers did not even include page 2 of the “Myth vs Fact” sheet in their response. While they made a huge deal of including the “Myth vs Fact” sheet, calling it “Exhibit B” in enormous bold font, they only submitted page 1.

I pointed out in my complaint that:

“... the “common household devices” to which APS compares their “smart” meters are used voluntarily. “Smart” meters are forced on people. No one tells you the only way you can not have a microwave oven or a cell phone is to “opt out”.

The APS lawyers have attempted to refute my statement that ““Smart” meters are forced on people” by removing it from its paragraph context and refuting it as a standalone, separate allegation. However, the fact remains that if “smart” meters were truly voluntary and unforced then ratepayers would have to “opt in” to have one, in much the same way they “opt in” to having the other microwave emitting devices they might own, which is to say by conscious choice.

There has been little to no informed consent on the part of ratepayers regarding “smart” meters, especially given the type of fraudulent propaganda (exemplified by the “Myth vs Fact” sheet) APS has been allowed to distribute. And there are docket submissions by ratepayers irate at being sent the “Myth vs Fact” sheet.

The APS lawyers state: “APS alleges that it gives its customers the opportunity to elect not to have a smart meter installed at their home. Presently, there is no charge to customers for refusing a smart meter.”

More deceptive language, omission of material facts, and half-truth! Yes, APS “gives its customers the opportunity to elect not to have a smart meter installed at their home.” But how many customers know they have that “opportunity”? Very few do. Why? Because APS does not make that opportunity well known. And many customers do not even know what a “smart” meter is or that they have one.

Additionally, if customers did know they have the right of refusal, they might not realize they should care one way or the other due to the misinformation APS has been allowed to spread about “smart” meters. Again, there has been little to no informed consent.

As I have asked the ACC in the past, “What good does right of refusal do when most people do not even know what “smart” meters are or what they do? How do people refuse something they do not know they have?”

Here's a case in point. When APS installed “smart” meters in Payson they did notify ratepayers they were going to get a “smart” meter but there was no mention of the fact that they could refuse one. See for yourselves. As I mentioned, the notification letter APS sent to Payson ratepayers is enclosed along with the APS notification door-hanger.

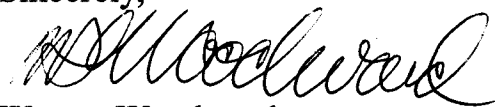
Further, the APS lawyers stated: "Customers are notified in advance of the installation of an automated meter and are given sufficient time to respond and refuse." Not true. I have received reports from people in Phoenix, Flagstaff, Queen Creek, Sun City Grand, and Tombstone who never got any notification nor did their neighbors.

The APS lawyers make much of the fact that right now there is no charge to refuse a "smart" meter. They mention that 4 times. What they do not mention is that they have a proposal before the ACC to extract \$75 upfront and \$30 per month from ratepayers who refuse a "smart" meter. What they do not mention is that APS customer service employees have intimidated ratepayers with this extortive fee when ratepayers call in to refuse a "smart" meter. The ACC has received complaints about this unsavory, bully tactic.

Lastly, the APS lawyers offered no rebuttal to that part of my complaint in which I deconstructed the misleading language APS used in their "Myth vs Fact" discussion of ratepayer data sharing, data selling and data security. I surmise that's because they couldn't.

In conclusion and in light of the forgoing, it should be clear that APS is incorrigible and cannot, will not, stop violating fraud statute A.R.S. 44-1522. The ACC has the duty to stop the violations under A.R.S. 40-203 and A.R.S. 40-422. The only question is: When will you?

Sincerely,

A handwritten signature in black ink, appearing to read "Warren Woodward", written in a cursive style.

Warren Woodward





August 1, 2013

P.O. Box 53933  
Phoenix, AZ 85072-3933  
www.aps.com

PAYSON AZ 855

Re: APS Account Number

Service Address

Dear

At APS, we make every effort to keep you informed, and we want to let you know that we will be upgrading the electric meter at your home in the next few weeks.

Although the new meter will appear similar to the meter that currently measures your usage, it will offer many advantages. Once the new meter is installed, you will be able to login to your account on [aps.com](http://aps.com) to view information about your household energy usage. You also will find tools designed to help you make more informed decisions about your service. This includes:

- The ability to compare rate plans to see which plan would best meet your needs. You will also be able to switch to a new rate plan immediately without having to wait for the next billing cycle, as you would with your current meter.
- Detailed energy usage information that will also help you better understand your usage habits, enabling you to identify other opportunities to reduce your monthly bill.

When the meter is exchanged, you will experience a momentary loss of power. Typically, the interruption to your service lasts less than five minutes, and APS will make every effort to minimize your inconvenience. In addition, we'll leave a door hanger within three business days prior to exchanging your meter so you'll know when to expect the upgrade of equipment. During this three-day window, we ask that you unlock any gates and breaker panels and secure your dogs or other animals away from the electric meter and breaker panel.

Any APS employee contacting you regarding official business will display proper identification. If you have any questions, please feel free to contact us at 602 371 3656 in the metro Phoenix area, or 800 281 3349 outside of Phoenix.

Please login or register your account on [aps.com](http://aps.com) to learn more about how your new meter can benefit you. We appreciate the opportunity to serve you

Sincerely,

APS Customer Service

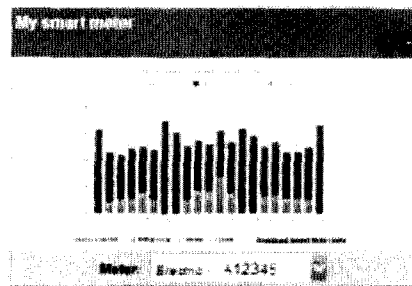
## Scheduled Meter Exchange

To help us better serve your needs and modernize our technology, APS will be exchanging your electric meter for a new automated meter.

We plan to exchange your meter within the next three (3) business days, including Saturdays.

The new meters offer customers many important benefits, including:

- Greater control over your energy usage, allowing you to reduce your energy costs.
- Highly detailed information so you are better able to make informed decisions.
- More rate plans that are based on the individual lifestyles of our customers.
- The potential for faster outage detection and service restoration, which means less disruption to your home.



*View usage data at [aps.com](http://aps.com)*

APS will make every effort to minimize any inconvenience. However, when the meter is exchanged you will experience a momentary loss of power. Typically, this process takes less than five minutes.

- As a safety precaution, please be sure to unlock any gates and or breaker panels.
- Secure your dogs or other animals away from the electric meter and/or breaker panel.
- Turn off computers, if possible.

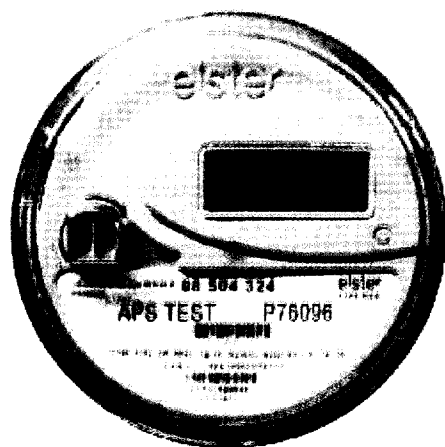
Any APS employee contacting you regarding official business will display proper identification.

### Questions?

In the Phoenix metro area  
call 602 371 7171 or outside Phoenix  
call 800 253 9405.

850-00AP (3-2012)

## Automated Meters



Since 2005, APS has been replacing traditional customer meters—whose only function has been to measure electricity usage—with advanced metering infrastructure (AMI), also known as “automated” meters.

Already installed to more than a million of APS’s 1.1 million retail customers, automated meters set the foundation for innovative projects to help customers manage their energy use while driving upgrades in overall reliability.

### RF EXPOSURE

Automated meters use wireless technology to communicate information about electricity usage to APS. The meters transmit this information through radio frequency (RF) signals.

Wireless smart meters result in much smaller levels of radio frequency (RF) exposure than many existing common household electronic devices.

Significant research on the thermal effects of radio frequency energy has been done over the last 30 years. The World Health Organization has concluded that no known adverse health effects can be attributed to low-level radio frequency.

### Questions?

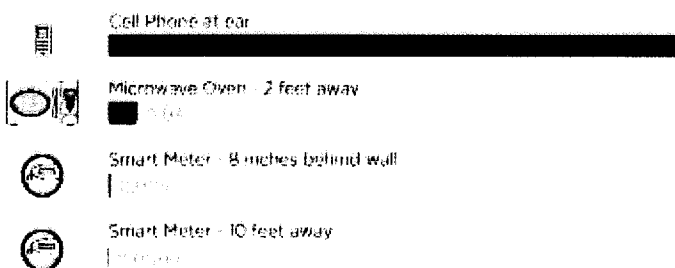
More information about radio frequency is provided by the following organizations:

- World Health Organization ([who.int](http://who.int));
- Federal Communications Commission ([fcc.gov](http://fcc.gov)); and
- Electric Power Research Institute ([epri.com](http://epri.com)).

For more information about the APS automated meter program, please visit [aps.com](http://aps.com) or call us at 602 371 7171 (Phoenix metro area) or 800 253 9405 (statewide).

#### RF Exposure

Milliwatts per square centimeter (mW/cm<sup>2</sup>)



Wireless meters send signals at brief intervals throughout the day, averaging just a few minutes exposure over a 24-hour period. The comparisons on the chart above are based on an assumption of an APS automated meter’s radio running 100 percent of the time.