

ORIGINAL



0000170070

COMMISSIONERS
DOUG LITTLE - Chairman
BOB STUMP
BOB BURNS
TOM FORESE
ANDY TOBIN



ANDY TOBIN
COMMISSIONER

Direct Line: (602) 542-3625
Email: ATobin-web@azcc.gov

RECEIVED

Arizona Corporation Commission ARIZONA CORPORATION COMMISSION DOCKET CONTROL

DOCKETED

MAY 03 2016

2016 MAY 3 AM 9 08

DOCKETED BY *AK*

May 3, 2016

RE: Docket No. AU-00000D-16-0120 – A disclosure of a possible substantial interest pursuant to A.R.S. § 38-509

Dear Commissioners and Interested Parties:

In order to promote transparency, I am filing in Docket No. AU-00000D-16-0120 a disclosure of a possible substantial interest as defined in A.R.S. § 38-502 for the following matters:

- T-03471A-16-0064 – Cox Arizona Telcom: Application for Approval of Revisions to the Cox Local Exchange and Toll Service Tariff to Increase Business Line Restoral Charge Max Rate; and
- E-01933A-15-0239 & E-01933A-15-0322 – Tucson Electric Power Co.: Application for Approval of its 2016 Renewable Energy Standard and Tariff Implementation Plan and the Establishment of Just and Reasonable Rates and Charges Designed to Realize a Reasonable Rate of Return on the Fair Value of the Properties of Tucson Electric Power Company Devoted to its Operations Throughout the State of Arizona and for Related Approvals.

As evidenced again in my April 13, 2016 letter to this docket, Commission Staff are understandably having difficulty interpreting the conflict of interest statutes in A.R.S. § 38-501 *et seq.* and § 40-101.

When Governor Doug Ducey appointed me to the Commission, one staff attorney suggested that I wasn't even eligible for appointment. I, along with other lawyers at the Commission and elsewhere, disagreed with that clearly erroneous statutory construction.

When the Commission considered Arizona Public Service Company's application for an adjustment to its Annual Lost Fixed Cost Recovery Mechanism at the April Open Meeting, I was originally advised to recuse myself from voting on this matter. I tried grasping at the legal logic as to how a substantial conflict exists, especially given this mechanism affects all residential

customers, solar and non-solar, equally. Shortly following the meeting, Staff then reversed their legal position and agreed with me that this matter poses no substantial conflict.

Commission counsel has changed their position once again on Garkane Energy Cooperative's rate case that the Commission is scheduled to consider at its May Open Meeting. Solar City is even party to the case. I was initially barred from participating, but after further review, I was advised that no substantial conflict exists.

These three instances reveal a fundamental truth about the Commission's interpretation of the conflict of interest statutes: namely, that Staff has construed the law too narrowly.

According to some, my son-in-law poses a substantial conflict of interest because he is employed at Solar City. If he were an executive at the company, I would agree. But he is not. Rather, he works in an entry-level position as an inventory specialist. He possess no managerial or budgetary authority, just like the thousands of his fellow working-class citizens who are also employed at Solar City or other solar companies doing business in Arizona, not to mention the thousands of contractors working with these companies.

This is the third time an interpretation of the conflict of interest statutes has been reversed. I would be remiss if I did not share my deep concern over these shifting interpretations that, if followed to their logical conclusions, would bar Arizonans with working class families from public service.

Sincerely,



Andy Tobin
Commissioner