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Memorandum
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Attached please find Commissioner Robert Burns' remarks at today's (T&D) Transparency and Disclosure Rules workshop.

Commissioner Burns' Opening Remarks at the T&D Workshop – March 23, 2017

Welcome to today's workshop to discuss the development of transparency and disclosure (T&D) rules.

I initiated this proceeding with the goal of identifying and rectifying problems regarding financial contributions from regulated monopolies and other stakeholders who have business before the Commission. These contributions can lead to undue influence over Commissioners and Staff, and in the worst cases, regulatory capture, in which Commissioners become biased proxies for the regulated monopolies or other stakeholders who financially back them. The effect of regulatory capture is that customers end up paying higher rates to fund higher profits for the monopoly or stakeholder who used financial contributions to gain undue influence.

Regulatory capture has been, and continues to be, the most concerning issue to me. The Arizona Constitution requires Commissioners to balance the interests of monopolies and ratepayers. When undue influence is present, that balance is off and the ratepayers suffer. I believe T&D rules are necessary to ensuring the balancing we conduct is as fair as possible.

We are dealing with a regulatory environment here. Regulated monopolies like APS are different from free market corporations. They are not like Google; they are not like Apple. They have an exclusive right to serve an area of customers. These customers have no choice when it comes to their electric service provider. They cannot change providers if they are unhappy with the rates charged or service provided. Included in this exclusive right to serve a certain area is the monopolies' right to recover certain costs of the investments made to serve customers and the opportunity to earn a profit. In other words, unlike corporations operating in the free market, the amount of money regulated monopolies make is determined by one governmental body: the Corporation Commission. The Corporation Commission is the only check and balance on the monopolies. That's what makes this setting so different, and so important.

In exchange for having the exclusive right to serve certain customers, a guaranteed revenue stream and a right to earn profits, regulated monopolies voluntarily subject themselves to Commission regulation and oversight. This is often referred to as the regulatory compact. It is an agreement by the regulated monopoly to remain fully transparent and accountable to the people of this state who have granted them the special economic benefits of a monopoly. That agreement keeps the monopoly from taking advantage of its special business rights, and allows the consumers who are

limited to the monopoly's services to test whether they are being treated honestly and fairly. But that agreement is broken when the regulated entity takes steps to hide its financial activities, especially uses of its money that can be used to influence the regulators who are supposed to be also helping protect the consumers.

To make sure that the social compact with regulated monopolies can always be enforced, the framers of our state constitution created the Corporation Commission and gave it unique and broad powers. The constitutional authority of the Commission to regulate and seek disclosure from the monopolies it regulates and companies affiliated with them has been affirmed by the highest courts of this State. In fact, one of these courts stated that this regulatory compact was established "primarily for the interest of the consumer." Our founders saw the monopoly model as the best option for customers to receive safe, reliable and affordable electricity service. But they also gave the Commission the right to subpoena and investigate the monopolies and affiliates as part of its oversight. And, the Arizona founders gave the Commission broad powers to fashion educated and robust rules to make sure that all regulated monopolies are fully obeying their obligations to Arizona utility consumers.

It is no secret that I have been concerned about the lack of transparency and disclosure that has occurred here recently. I have now been elected twice to represent the people of Arizona here at the Commission. I hear from the public on a daily basis that they are extremely concerned about whether this Commission is conducting its duties with the objectivity and independence our State Constitution requires. The quality of our decisions requires that everyone participating has reasonably similar access to participate and influence the process and that Commissioners conduct themselves with the highest ethical standards. I humbly believe we do our job best for the voters that sent us when we remain vigilant and wary of undue influence, and when we develop and deploy good rules that help us, the press, the voters, and all having business before the Commission sniff out, call out and combat any examples where a regulated monopoly or other interested participant in Commission business might try to encourage a Commissioner's support or vote by financial contributions of any kind. I am hopeful that by conducting this study to understand potential weaknesses in the Commission's processes and practices and developing robust T&D rules the public's confidence in this body will be restored.

With that, I'd like to introduce our presenter, Tara Malloy. Tara is Deputy Executive Director of the Campaign Legal Center, a non-partisan organization that is one of the nation's premier election law experts. She litigates a wide range of campaign finance and election law cases throughout the country and has expertise in campaign finance, lobbying and governmental ethics issues. She is a former Fulbright Scholar, a graduate of Yale Law School and Emory University.

Ms. Malloy's presentation will be followed by public comment which I will start by reading a letter of support I've received from the Goldwater Institute.

On this 23rd day of March, 2017, the foregoing document was filed with Docket Control as Correspondence from Commissioner, and copies of the foregoing were mailed on behalf of Bob Burns, Commissioner - A.C.C. to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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