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March 16, 2015

Arizona Corporation Commission (ACC)
Docket Control Center
1200 West Washington Street
Phoenix, AZ 85007-2996

Re Response to Filing of Sample Orders, Docket # E-01345A-13-0069

DOCKETED BY	
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Commissioners;

The three "Sample Orders" that your Legal Division concocted in an attempt to deal with my appeal to your flawed and illegal Decision # 74871 are typical ACC biased and inaccurate nonsense.

None of the three options deal in full with the points raised in my appeal or the relief sought.

Option number one provides for reconsidering APS's extortion fee request via APS's next rate case. Burying the issue in a rate case is inappropriate for a number of reasons, not the least of which is that, as I show later in this Response, neither the ACC nor APS can be trusted to be honest or to get this issue right.

Option number two provides for an evidentiary hearing of APS's extortion fee application. While that option would appropriately deal with APS's extortion fee request as a standalone issue, and would allow for increased scrutiny by independent Interveners such as myself, due to what I have uncovered in emails obtained through a public records request, I now question whether justice is ever a possible outcome at the ACC. Even the ACC Administrative Law Judges appear to have engaged in improper conduct.

I will be discussing some of those emails later in this Response, along with option number four which the ACC Legal Division forgot to mention altogether.

Additionally, both options number one and number two amount to a stalling tactic. As I have pointed out repeatedly, the Arizona Department of Health Services (ADHS) "smart" meter health study that *you* called for did not find "smart" meters to be safe, and so with every day that passes both you and APS are in violation of state statutes.

Option number three, by denying my appeal altogether, would only cement the multiple violations and mistakes you committed in Decision # 74971.

Despite my best efforts, your Legal Division still does not understand English or the Law. The use of the bogus, inaccurate term, "opt out," is unfortunately used throughout the three sample orders.

Understand that through the use of this term, the ACC is engaging in a legal and logical fallacy.

Understand that adoption of this industry propaganda term by the ACC only confirms that the ACC is a tool of the very industry it is charged with regulating.

The ACC needs to reread until it comprehends **Airbrushing the “Background” – The “opt out” Fallacy ~ No Basis in Law** on p. 9 of my appeal. (My appeal is here: <http://images.edocket.azcc.gov/docketpdf/0000159183.pdf>)

“FINDINGS OF FACT”

The so-called “Findings of Fact” numbers 1 through 15 are identical in all 3 “Sample Orders.”

As was the case with the so-called “Findings of Fact” section of Decision # 74671, the “Findings of Fact” sections of the three options would be better named **Errors and Omissions of Fact & Findings of Fantasy**.

Non-Fact # 3:

3. Several groups of APS customers have raised concerns about the health effects of smart meters. These customers have requested the ability to retain non-transmitting analog meters, and APS’s proposed opt-out schedule is intended to recover the costs of retaining analog meters for those customers.

Can the ACC stop misrepresenting the “smart” meter issue? Why aren't these imaginary costs referred to as alleged costs? Non-Fact # 3 reflects the ACC's underlying bias in favor of APS's unproved contention that people who refuse “smart” meters are cost-causers.

Additionally, APS customers have raised many more concerns than just health. These concerns are listed and explained on pages 4 through 13 of my appeal. Again, the ACC needs to read and comprehend my appeal.

Also and again as I explained in my appeal, not all customers may want an analog meter; some may want a digital non-transmitting meter for Time Of Use rates. There is no reason why those customers should be forced to have a “smart” meter or be discriminated against in any way for failure to accept one.

Plus, as I explained in my appeal, not all concerned customers are in “groups.” It is pathetic that the ACC can't even get that simple point correct.

Non-Fact # 4:

4. In its proposed opt-out tariff, APS proposed two charges for customers who choose to opt-out of AMI metering. Those charges included a one-time \$75.00 initial “set-up” charge and a recurring monthly meter-reading charge of \$30.00. The Company subsequently provided updated cost estimates for a lower monthly fee of \$21.00.

Again, reread my appeal until comprehension is achieved. APS is the entity that recklessly chose to “opt” people in to what is – by virtue of ACC Decision 69736 – an optional metering program. As such, any costs incurred by APS due to people refusing the voluntary “smart” meter program belong to APS, not anyone else.

Additionally, “cost estimates” implies some kind of proof or basis upon which the estimates were made. In reality, APS’s “cost estimates” are simply a baseless request for money.

Again, why aren't these “cost estimates” called *alleged* cost estimates? ACC, your bias is showing, and it's time to read and comprehend **Estimated Costs – No, just APS winging some numbers at the wall and hoping some stick** on page 10 of my appeal.

Non-Fact # 6:

6. Among the comments were allegations that smart meters adversely affect human health, that smart meters intrude upon individual privacy interests, that the costs of smart meter deployment do not outweigh the benefits, and that APS’s proposed opt-out tariff rate is unreasonable.

Partial truth as usual. Among the comments – and discussed in my appeal – yet *still* not included in any ACC “Findings of Fact,” are cyber-insecurity, fires, damage to and interference with appliances, billing inaccuracy, and trespass & theft of property. Is the ACC *still* hoping these issues will go away if left unmentioned? Again, read and comprehend pages 4 through 13 of my appeal.

Additionally, we do not have individual privacy “interests.” We have individual privacy *rights*. Get clear on that. Whoever came up with that grotesquely perverted phrase, “individual privacy interests,” ought to be fired.

Something else to get clear on is that the refusal fee is not just “unreasonable,” it is extortion. Indeed, at the ACC's “smart” meter workshop meeting in March, 2012, the ACC was told exactly that by no less an authority than retired Arizona Superior Court Judge Joe Howe.

Also, notice that when the public says something it's an “allegation,” but that APS is treated differently. Nothing APS says is ever an “allegation.” ACC, your bias is showing once again.

Non-Fact # 7:

7. In a related proceeding (Docket No. E-00000C-II-0328), we considered the issues related to smart meters in a generic setting. In conjunction with those efforts, we asked the Arizona Department of Health Services (“ADHS”) to conduct a study regarding the potential health effects of smart meters.

Read and comprehend my appeal. The “issues related to smart meters” were chronicled in great detail by *members of the public* in that “related proceeding,” but those issues were mostly ignored by the ACC. So, saying “we considered the issues” is simply not true.

Also, it is worth noting here that, most improperly, there was no written agreement between the

ADHS and the ACC for the “smart” meter study.

I am currently reviewing some 5.8K pages of emails regarding this study that were obtained via a public records request. There is overwhelming evidence revealing the study was biased from the start, and that the ACC had an undue, unethical influence over the study before and during its fabrication.

In the public records request emails I received from the ADHS, it is clear that ACC Executive Director Jodi Jerich (who is also implicated in the current ACC corruption scandal) was involved in prejudicing the ADHS study before the commissioners even voted for its inception.

Enclosed is a July 1st, 2013 email in which she made contact with ADHS Director Will Humble about the possibility of ADHS conducting a “smart” meter study for the ACC. Note that Jerich saw fit to include not one but two studies that were biased in favor of “smart” meters. (These two studies from Vermont have been exposed as blatantly misleading propaganda pieces by me in my detailed report on the ADHS study, **A Pattern of Incompetence and Fraud**. See pages 17 & 18 here: <http://images.edocket.azcc.gov/docketpdf/0000158210.pdf>)

Incredibly, ADHS Director Humble responded to Jerich that “At an intuitive level I know that these smart meters don't pose a health threat”

Who needs a fact-based, scientific approach when you've got intuition? One wonders what other health issues Humble has resolved using his intuition. Does he use a Quija board or has he honed his intuition to the point where he can rely on that alone?

Further prejudicing the ADHS study, note also that Humble's intuition-based opinion and Jerich's email were shared with others serving under Humble, others who would be the ones actually involved with the ADHS study. ADHS Assistant Director Don Herrington, ADHS Office of Environmental Health Chief Diane Eckles, ADHS Bureau of Epidemiology and Disease Control Chief Jessica Rigler, study authors Jennifer Botsford (ADHS Environmental Toxicology Program Manager) and Hsini Cox (ADHS Toxicologist) were among the recipients of the Jerich/Humble email exchange. They are all literally on the same page.

Does anyone think Botsford and Cox would write a study in which the outcome would conflict with their boss' viewpoint? (I know; that's like asking if anyone will believe that, because the Attorney General recused his APS-funded self from the ACC corruption scandal investigation, his underlings that he appointed to carry out the investigation will be independent.)

It is clear from the emails I am reviewing that ACC influence was pervasive throughout the entire time the ADHS study was being composed.

On August 5th, 2013, the ACC voted to ask the ADHS to do the study, and the study was released November 4th, 2014. After the August 5th vote, the ACC wasted no time in salting ADHS with their preferred studies. Following up on Jodi Jerich's initial emailing of the Vermont studies, note the enclosed email exchange between ACC Legal Division Director Janice Alward and ACC Legal Division Attorney Maureen Scott dated August 26th, 2013.

ACC Alward writes, “ Here is the info for Jennifer.” [Jennifer Botsford, one of the ADHS study's

authors.]

ACC Scott replies, "Thank you! I will try to get the studies out to her tomorrow."

Several meetings were held between the ACC and ADHS while the study was being researched and written. In another example of ACC salting, an April 11th, 2014 email (enclosed) with the subject heading "state of Maine report," ADHS Program Evaluator Amber Asbury forwarded the Maine report to ADHS study author Hsini Cox with the comment, "This is the report the ACC gave us at the last meeting."

It needs to be mentioned here that the Maine study was so poorly done, its authors so worse than inept, that I questioned APS's grasp on reality when APS submitted it to the docket.

Oh yes, here was a study originally submitted to the ACC docket by APS, now being directed to the ADHS by the ACC. You can't make this stuff up!

Because this Maine study was in the ACC docket already, ADHS would have seen it there anyway in their docket review. So why did the ACC pick it out for hand delivery to the ADHS? Was the ACC trying to make a point, running an errand for APS, influencing the ADHS study, what? Isn't it unethical for the ACC to be directing biased information to an agency supposedly writing an independent study?

Despite their high-sounding titles, the authors of the Maine study were so ignorant of their subject matter that they did not even know such basic information as how often and when "smart" meters transmitted. The ACC should have known how pitifully inadequate the Maine study was since I dissected it shortly after APS submitted it. My dissection was largely based on the Maine authors' very revealing internal emails obtained via a public records request. (Here: <http://images.edocket.azcc.gov/docketpdf/0000146483.pdf>)

ACC influence over the ADHS study was so great that, in a draft copy (enclosed) of the ADHS study that was in the trove of emails I received, I came across the following sentence under the heading "**Methods for Field Sampling**":

"The Arizona Department of Health Services (ADHS) met with the Arizona Radiation Regulatory Agency (ARRA) and the Arizona Corporation Commission (ACC) to design a field sampling plan."

Note that in the final version of the ADHS study, reference to the ACC was left out. The final version says:

"ADHS worked with ARRA to design a field sampling plan that would measure different meter technologies in urban and rural areas."
(Page 15, here: <http://images.edocket.azcc.gov/docketpdf/0000157691.pdf>)

Perhaps that change was decided upon when the ACC met with the ADHS shortly before the ADHS study was completed. Perhaps it was determined then that saying the ACC was involved in designing the field sampling plan wouldn't look so good to a public who was promised an independent,

unbiased study. See the enclosed October 10th, 2014 email for the discussion of the ADHS arranging a meeting with five people from the ACC on October 27th, 2014 – just one week before the ADHS study was released.

I even found an email thread in which ACC Administrative Law Judges – including the one assigned to all three “smart” meter dockets, Teena Jibilian – were included on a discussion presumably having something to do with the ADHS study (since those were the emails I requested). Of course like almost all the emails involving the ACC Legal Division, this thread was heavily redacted for “attorney/client privilege.” So while I can't say with certainty what this email thread was about, the appearance is one of impropriety, and especially so because what was written is censored. (See enclosed email.)

Should Judges be involved in email threads about matters that are before them? I don't think so.

One of the most remarkably telling email threads I came across is also enclosed. It is one in which three ACC Utilities Division engineers discuss my youtube video, **APS Caught Lying Again**.

I had always wondered how it was that my videos proving APS to be lying about their “smart” meter transmissions got no traction at the ACC. The answer turns out to be simple. The engineers who review the videos and make recommendations to others have no idea what they are looking at and are in complete denial that APS could be lying.

ACC Executive Director Jodi Jerich saw my video and emailed ACC engineer Ed Stoneburg, asking him to watch the video then call her to share his thoughts.

Stoneburg then emailed other ACC engineers, Margaret Little and Jeff Francis. Idiocy ensued.

Margaret Little had little idea of what she was seeing, how my measuring device works, but she was certain that APS wasn't lying. “... I'm sure they are not,” she wrote.

She confessed that she did not watch “the whole thing” – which would have taken her a whole 5 & ½ minutes – but then she wondered if it is “ever possible to see what the units of those readings are.” Uh yes, Margaret, there are close-ups of my measuring device in the video. One can clearly see what unit of measurement the device reads in, but one must actually watch the video to see that!

Margaret Little suggested contacting “Jerry” [Perkins] at the Arizona Radiation Regulatory Agency or APS to see what they say.

None of the ACC engineers had the brains to just pick up the phone and call me with their questions. God forbid they might learn something from a mere commoner.

Ed Stoneburg replied to Margaret that “You can't see the units on the meter” It's time for Ed to get his lens prescription changed. The units are clearly visible in at least two close-ups.

Echoing Margaret, Stoneburg also launched into some total nonsense about how he thought the volume control on my measuring device works, but all he really did was demonstrate his complete ignorance.

Stoneburg probably thought he had me nailed when he summed up with “However, he never says that it exceeds FCC limits, which I doubt it does.” Clearly Stoneburg missed the entire point of my video which had absolutely nothing to do with the FCC guidelines but everything to do with specific statements APS had made in the docket about their “smart” meters' transmissions, statements that I proved were false.

Apparently awestruck by what she perceived as Stoneburg's brilliance, Margaret Little emailed back, “All good, Ed! You are the best.” Nothing like an insular, mutual admiration society to foster learning I always say.

ACC engineer Jeff Francis was at least smart enough to look up my measuring device at the manufacturer's website, but he still did not understand how it works. It's clear from his email that he missed the part about how it makes a specific and different sound for different frequencies, so that there is no question of what one is actually measuring.

Francis was in such complete denial that he started out his email by saying, “This is the tester he says he's using.” Uh no, Jeff, it's the device I really am using. Close-up shots in the video prove that. And no, I don't use Photoshop or a green screen.

Francis wrote, “Would be good if he showed the specific smart meter mfg/model and if the camera panned around a bit to see if there might be other sources of RF.”

Mfg/model? Doesn't this ACC engineer know what meters APS uses? Hint: they're Elster. How hard would it have been to find that out?

Pan around? Isn't it obvious when the cameraman backs the shot out that there's nothing else around? Besides, even if there was another RF source around, one would hear it on the measuring device, and hear it as a distinctly different sound.

I can't help but wonder what we are paying these people to be ignorant and incapable of figuring anything out.

I can't help but wonder what we (or APS?) are paying these people to automatically side up with APS.

I can't help but wonder if these are the same engineers that Utilities Division Director Steven Olea said would huddle up with APS after the December 12th, 2014 meeting to verify if APS was telling the truth about APS's bogus claim that “smart” meters were necessary for solar customers. Probably they were since the ACC got that one completely wrong too.

I'll have more to divulge about the emails in the future but the point I am making now is that the ACC is so biased in favor of APS, so ignorant and determined to stay that way, so tainted by corruption and lawlessness, that it has lost its credibility as a regulatory agency. It is “captured.”

From Wikipedia:

Regulatory capture is a form of political corruption that occurs when a regulatory agency, created to act in the public interest, instead advances the commercial or special concerns of interest groups that dominate the industry or sector it is charged with regulating. Regulatory capture is a form of government failure; it creates an opening for firms to behave in ways injurious to the public (e.g., producing negative externalities). The agencies are called "captured agencies".
(http://en.wikipedia.org/wiki/Regulatory_capture)

Non-Fact # 9:

9. The study involved a sampling of smart meters to determine if the meters were operating within the parameters set by the Federal Communications Commission ("FCC"). ADHS's study confirmed that the meters tested were operating within the FCC standard.

Once again, the ACC Legal Division is either purposely misleading or ignorant, or both. The FCC does *not* have a "standard." The FCC has *guidelines*. The difference, and the importance of that difference, is explained in my appeal on page 21, **Commission Fantasy – The commissioners try to hide in FCC Fantasy Land**. Once again, the ACC must read and comprehend – if that's even possible.

Additionally, the measuring equipment used in the ADHS study was inaccurate, and the methodology used in the ADHS study was wrong. See **Field Study Follies – more incompetence**, on page 29 of my detailed report on the ADHS study, **A Pattern of Incompetence and Fraud** (here: <http://images.edocket.azcc.gov/docketpdf/0000158210.pdf>).

Also, see my youtube video, **Video Exposé - The ADHS "Smart" Meter Study Is Grossly Inaccurate**, which compares the cheap, inaccurate piece of equipment used in the ADHS study with more precise equipment. (Here: <https://www.youtube.com/watch?v=XRkfucJzrEk>)

Indeed, it can be seen in the emails I am reviewing that one of the ADHS study's authors, Jennifer Botsford, wondered why the readings of the "smart" meters measured for the study were so much lower than those she had read about in other studies.

Ten days before the study's completion, it must have dawned on Botsford that something was not right, although she didn't know why. From the enclosed October 24th, 2014 email, from a list of questions she had for the ARRA who did the study's measuring:

"Why their readings are about 100Xs lower than other states – is there an issue with their units?"

Uh no, Jennifer, the issue was not with the units of measurement they used but rather with the actual device they used to do the measuring. Watch my video and learn.

Note that throughout the entire study misadventure, no one ever thought to question if the ARRA knew what they were doing and had the proper equipment. The scrutiny and skepticism that were applied to my measuring was suspended for the ARRA.

Non-Fact # 11:

11. On December 18, 2014, we issued Decision No. 74871. In that decision, we took judicial notice of the ADHS study.

Wrong!

There is no mention whatever of the ADHS study in Decision # 74871 – None, ZERO, Nada, Zilch.

In actual fact, the ADHS study was thrown under the bus. I suspect that's because the study, monumentally flawed as it was, did *not* proclaim “smart” meters to be safe and therefore in compliance with the state statutes that APS and the ACC are subsequently and currently violating. See **Commission Fantasy – The real “Background”** on page 24 of my appeal.

Non-Facts # 22 & # 23 in “Sample Order” # 1

Non-Facts numbers 22 and 23 in the first option reflect incredible naivety and bias on the part of the ACC.

22. We will also require APS to track the costs of its continued provision of analog meters, including the costs of such meters, the costs of meter reading, and any other costs attributable to providing customers with analog meters. APS may defer those costs, and may request recovery of any reasonable and prudent costs in its next rate case.

As I have already explained, those costs belong to APS. A poor, reckless and arrogant business decision was made by APS when it decided to “smart” meter its service territory. As such, APS shareholders – not ratepayers – are responsible for the costs incurred in that decision. I am confident APS shareholders can easily find the money in their political donations account, their other influence peddling account – I mean their 9.6 million dollar charitable donations account – or perhaps in the multi-millions paid out to the executives who were stupid enough to make the poor, reckless and arrogant business decision in the first place.

Additionally, the ACC's bias is showing once more since APS was never required to “track the costs” of “smart” metering and the “smart” grid. Those costs have never been part of this entire matter. Those costs were never considered in any meaningful detail.

23. Also in its next general rate case, APS shall provide the following information in order to assist us with our evaluation of these issues:

- a. The total number of APS customers who have elected to be served with analog meters in the test year;
- b. A breakdown by county of the number of APS customers who have elected to be served with analog meters in the test year;
- c. The average per-customer, test-year costs of providing service with an analog

meter as compared to the average per-customer, test-year costs of providing service with a smart meter;

d. The test-year costs and expenses attributable to allowing customers to receive service through an analog meter;

e. The estimated bill impacts of spreading the cost recovery of an opt-out program across all APS customer classes;

f. The estimated bill impacts of confining the cost recovery of an opt-out program to those customers who elect to forego an AMI meter;

g. The estimated bill impacts of spreading the cost recovery of an opt-out program across all residential customers; and

h. A comparative analysis of the costs and benefits of smart meters as opposed to the costs and benefits of analog meters.

Does anyone (except perhaps the ACC) think for a minute that APS can be trusted to divulge the right numbers?

After all, this is the same APS that was originally telling us that it had good reasons for needing compensation to the tune of \$75 up front to set up an account that I, for example, already had and had for years.

After all, this is the same APS that was telling us it had good reasons that nothing short of \$30 per month would be just compensation for the arduous task of reading a meter once a month. This same APS then dropped its proposed extortion fee down to \$21 just shortly before the ACC meeting in which the matter was to be decided. So are we to believe this corporation was wrong by 30% initially and suddenly realized its mistake just before the meeting?

I think a more likely scenario is that APS originally asked for an exorbitant amount to scare people into keeping their "smart" meter. Indeed, that is what actually happened. The ACC was told repeatedly that APS phone jockeys were abusing customers who called up to refuse a "smart" meter. Among the tactics of abuse APS used was to scare customers with not only the threat of high refusal fees but in some instances that the fees were a done deal.

Once again this brings up the subject of informed consent. When it comes to "smart" meters, there has been little to no informed consent amongst the ratepaying public. The numbers of people refusing have therefore been kept low.

Why is it that we never saw points "a" through "h" written as below? Shouldn't APS have been required to provide this information for what is, by law, a voluntary "smart" meter program?

a. The total number of APS customers who have elected to be served with "smart" meters in the test year;

- b. A breakdown by county of the number of APS customers who have elected to be served with “smart” meters in the test year;
- c. The average per-customer, test-year costs of providing service with a “smart” meter as compared to the average per-customer, test-year costs of providing service with a smart meter;
- d. The test-year costs and expenses attributable to allowing customers to receive service through a “smart” meter;
- e. The estimated bill impacts of spreading the cost recovery of a “smart” meter program across all APS customer classes;
- f. The estimated bill impacts of confining the cost recovery of a “smart” meter program to those customers who elect to forgo an analog meter;
- g. The estimated bill impacts of spreading the cost recovery of a “smart” meter program across all residential customers; and
- h. A comparative analysis of the costs and benefits of smart meters as opposed to the costs and benefits of analog meters.

As I wrote on page 15 of my appeal:

“The ACC has neglected and botched this financial aspect of the “smart” grid so badly and for so many years that it's really time for an independent forensic audit of the entire mess.”

That sentence was written two and one half months ago. Since then the current ACC corruption scandal has erupted. That scandal, coupled with the ignorance and bias revealed in the incriminating emails I've now supplied, causes me to feel even more strongly that the ACC cannot be trusted to get this issue – or any issue involving APS – right.

The ACC should be sealed off with yellow crime scene tape. Search warrants should be issued, and all records and emails gone through. In my opinion, it is clear that the ACC is a captured agency.

At the very least, any investigation into the financial aspects of APS's “smart” grid must be done by a truly independent accounting firm.

At the very least, commissioner Bob Stump, who should have resigned after twice shamelessly calling attention to someone's handicap in his Twitter feed, should recuse himself from any votes until the ACC corruption scandal in which he is implicated is resolved. (The ACC whistleblower's letter that contains the allegations about Stump is here:

http://archive.azcentral.com/persistent/icimages/news/ACC_whistleblower_letter_02-18-15.pdf)

Conclusions of Law # 5 in “Sample Order” # 1

Conclusion of Law # 5 in option number one reflects more biased and backward ACC thinking. It states:

“It is reasonable to allow APS to defer the reasonable and prudent costs discussed in Finding of Fact No. 22 for possible recovery in its next rate case.”

As I gave examples of in my appeal, real world cost/benefit analyses that have been performed already show “... it is analog users who are paying for a “smart” grid they don't want and never signed up for.” ACC, read and comprehend **Estimated Costs – Who is “socializing” whom?** on page 13 of my appeal.

Actually, what would be “reasonable” would be for APS to refund me – and everyone else who has refused a “smart” meter – our subsidized share of APS's “smart” grid.

Non-Facts #s 17, 19, 20 & 21 in “Sample Order” # 3:

17. In our generic docket, we have held several public comment sessions, and we note that those proceedings have been well attended.

Well attended by whom? I had a laugh when I read that gross misrepresentation. In the three years before last December's open meeting, there have been a grand total of 2 meetings, one special open meeting and one workshop meeting. At both, commissioners either did not show up at all or left early. The workshop meeting was so poorly attended by commissioners that the previously mentioned retired Arizona Superior Court Judge Joe Howe chided the single remaining commissioner about the novelty of speaking to a row of empty chairs.

The special open meeting could hardly be characterized as a “public comment session.” The utilities got as much time as they wanted to spew their lies, put on a misleading power point presentation, and answer the commissioners' softball, uninformed questions while the public got 3 minutes apiece. The meeting was a joke.

Non-Fact # 19:

19. We recognize that some APS customers continue to be concerned about the various issues that may surround smart meters. At the same time, we recognize that APS's proposed opt-out tariff was specifically designed to provide an alternative for these customers.

This Non-Fact is another gross misrepresentation. I have already explained the illogic and illegality of “opt out.” I will add that APS's extortion fee program does *not* “provide an alternative” to the electronic trespass that customers face from meters other than their own. Removing one meter from a bank of 25 does not help the person who lives on the other side of the remaining 24. Since the biological effects of “smart” meters occur for the length of a football field, the same is true for people living in suburbia. There is no “opt out” from the electronic trespass of the mesh network. (See <http://images.edocket.azcc.gov/docketpdf/0000145782.pdf>)

Additionally, and in a gross example of discrimination, under the ACC/APS extortion fee

Decision approved last December, solar customers, commercial customers and Time Of Use customers do not even rate the offer of this faux "alternative."

Non-Fact # 20:

20. APS has adopted AMI meters as its standard, and the older analog meters are now the exception. A program to allow customers to retain these older, non-standard meters creates genuine costs.

What APS "adopted" is their problem. And again, it is APS's adoption program that "creates genuine costs."

Since when does APS create "standards" anyway?

APS's "standards" do not trump state statutes.

As I wrote on page 10 of my appeal:

"APS has attempted to cement this illegal, mandatory "opt in" program by proclaiming in their extortion fee application that "smart" meters are now their "standard meter," and any other meter is "non-standard." But APS's terminology does not convey or define legal status."

Non-Fact # 21:

21. In our balancing of the equities, we conclude that those customers who cause the costs should bear a reasonable share of the cost recovery. We believe that Decision No. 74871 strikes an appropriate balance at this time.

Commissioners, you are dreaming if you think you have 'balanced the equities.' I proved in my appeal that you have not.

In *my* "balancing of the equities," I conclude that those corporations that cause the costs should eat the costs. No one asked APS to "smart" meter Arizona. No one asked APS to remove and ruin over a million perfectly good, working meters and replace them with bio-toxic meters that cost more, have a fraction of the service life and require a much more costly ancillary system in every way, both initially and down the road.

Conclusion

In conclusion, the ACC needs to read and fully comprehend my appeal.

None of these three options substantially address the relief I requested.

None of these three options address the multiple, serious violations and mistakes the commissioners made in Decision # 74871.

In short, your Legal Division forgot to list your only real option, Sample Order # 4, which is to grant the relief I requested:

In appealing this fatally flawed Decision, I hereby call on the ACC to recognize their many mistakes, flawed behavior, face the facts and recall all wireless "smart" meters under its jurisdiction at once.

Sincerely,



Warren Woodward

Intervener in Docket # E-01345A-13-0069

Cc: Phoenix FBI, Attorney General Mark Brnovich, Governor Doug Ducey

Original & 13 copies filed today with ACC Docket Control at the above address.

Copies hand delivered/mailed today to this Docket's Service List:

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Michael Curtis, Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C., 501 East Thomas Road, Phoenix, AZ 85012

Charles Moore, Navopache Electrical Cooperative, 1878 West White Mountain Blvd., Lakeside, AZ 85929

David Pennartz & Landon Loveland, Gust Rosenfeld P.L.C., One E. Washington, Ste. 1600, Phoenix, AZ 85004-2553

Claire Fritz, Intervener, 6770 W. Hwy 89A, #80, Sedona, Arizona 86336

Steven Olea, ACC, 1200 West Washington St., Phoenix, AZ 85007

Janice Alward, ACC, 1200 West Washington St., Phoenix, AZ 85007

Lyn Farmer, ACC, 1200 West Washington St., Phoenix, AZ 85007

From: Jennifer Botsford
To: Hsin-I Lin Cox
Subject: Fwd: DHS Study on RF Health Impacts of Smart Meters
Date: Friday, July 05, 2013 8:28:40 AM

I guess we should talk about this Monday...

Sent from my iPhone

Begin forwarded message:

From: Will Humble <Will.Humble@azdhs.gov>
Date: July 4, 2013, 10:57:04 AM MST
To: Diane Eckles <Diane.Eckles@azdhs.gov>
Cc: Jodi Jerich <JJerich@azcc.gov>, Jessica Rigler <Jessica.Rigler@azdhs.gov>, Jennifer Botsford <Jennifer.Botsford@azdhs.gov>, Don Herrington <Don.Herrington@azdhs.gov>
Subject: RE: DHS Study on RF Health Impacts of Smart Meters

Hi...

I talked to Jodi (copied here) a few weeks ago about our ATSDR grant and how we could help the commission with a project that they're working on. Can you get with Jodi and scope out the project and talk about the data you'd need, timelines etc.?

At an intuitive level I know that these smart meters don't pose a health threat- but it's still an outstanding question with some members of the public. I don't know if this would be an Assessment or Consultation... but I know we can help.

Please take it from here....

thanks...

will

From: Jodi Jerich [JJerich@azcc.gov]
Sent: Monday, July 01, 2013 11:15 AM
To: Will Humble
Subject: DHS Study on RF Health Impacts of Smart Meters

<http://edocket.azcc.gov/edocket/>

Will:

We talked several weeks ago about the possibility of DHS conducting a study on RF emissions of smart meters on behalf of the Corporation Commission. I

wanted to reopen that discussion.

It appears that there is renewed interest from the Commissioners in having DHS conduct such a study. I wanted to make sure the Department still had federal funds to cover the cost of the study and that your staff had the time to do it.

Please let me know what your thoughts are on this matter. For your review I have attached a link to the Commission's Generic Docket on Smart Meters. It will show you all the comments that have been filed to date with the Commission. I have also attached two reports from the Vermont Department of Health regarding the health impacts of Smart Meters.

Thank you for your consideration. I am out of the office for the rest of the week. But I can be reached on my personal cell phone at

Thanks.

Jodi

Jodi A. Jerich, Esq.
Executive Director
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
(602) 542-3931 (office)
(480) 244-7912 (cell)
jjerich@azcc.gov

This footnote confirms that this email message has been scanned to detect malicious content.

If you experience problems, please contact postmaster@azcc.gov

Constance Fitzsimmons

From: Maureen Scott
Sent: Monday, August 26, 2013 12:41 PM
To: Janice Alward
Subject: RE: RF and Smart Meters

Tracking:	Recipient	Delivery	Read
	Janice Alward	Delivered: 8/26/2013 12:41 PM	Read: 8/26/2013 12:43 PM

Thank you! I will try to get the studies out to her tomorrow.

From: Janice Alward
Sent: Monday, August 26, 2013 11:14 AM
To: Maureen Scott
Subject: FW: RF and Smart Meters

Here is the info for Jennifer

From: Jennifer Botsford [<mailto:Jennifer.Botsford@azdhs.gov>]
Sent: Thursday, August 01, 2013 8:31 AM
To: Jodi Jerich
Cc: Diane Eckles; Hsin-I Lin Cox; Amber Asbury
Subject: RE: RF and Smart Meters

Hi Jodi,

After reviewing the documents you suggested, our team discussed a couple of options on how we can proceed. The first option uses existing ADHS staff to complete the study. The estimated timeline would be approximately 12 months, based on our experience in this matter and competing workload.

Months 1 – 6:

Literature review

Coordinating meetings (concurrent with other work, ongoing)

Months 4 – 6:

Developing a sampling protocol

Months 6-8:

Implementing the sampling protocol

Months 9 – 12:

Analyze results

Compile findings and develop final report.

The second option would be if the commission has funds to hire an expert consultant to develop the sampling protocol and perform the sampling, with the hopes that they will be able to finish sooner. We would be happy to oversee their work, and use the sampling results to draft the final report. Under this option, the timeline would look more like this:

Months 1-3:

Literature Review

Coordinating meetings (concurrent with other work, ongoing)

Hire consultant

From: Amber Asbury
To: Hsin-I Lin Cox
Subject: Maine report on RF
Date: Friday, April 11, 2014 3:14:00 PM
Attachments: state of Maine report 3.25.14.pdf

68pgs., not printed

Hi Hsin-I,

This is the report the ACC gave us at the last meeting. Have a good weekend ☺

Amber

*Amber Asbury, MPH
Office of Environmental Health
Arizona Department of Health Services*

*150 N 18th Avenue, Suite 140
Phoenix, AZ 85007
(602) 364-4676
Amber.asbury@azdhs.gov*

Methods for Field Sampling

The Arizona Department of Health Services (ADHS) met with the Arizona Radiation Regulatory Agency (ARRA) and the Arizona Corporation Commission (ACC) to design a field sampling plan. It was decided that ARRA would test the RF emitted from a variety of meter technologies: Advanced meter infrastructure (AMI, two-way communicating devices), advanced meter reading (AMR, one-way communicating devices), and power line carriers (PLC, communicate via power lines). The measured RF levels will be used to determine if there is a public health concern associated with exposures to smart meters. Sampling was conducted from June to September 2014 by ARRA. Only outdoor sampling was conducted at residential locations for single-family homes and apartment complexes.

ARRA

The Arizona Radiation Regulatory Agency (ARRA) conducted the field sampling analyzed in this report. ARRA houses the nonionizing radiation section, which enforces Arizona Administrative Code Title 12 Chapter 1, Article 14 "The Control of Nonionizing Radiation." These rules address sources of radiofrequency radiation (RF) in the environment, occupational exposure concerns, as well as public exposure. ARRA regulates Class 3B and Class 4 lasers used in the medical, industrial and light show fields; Ultraviolet radiation in tanning facilities; RF radiation sources such as heat sealers and industrial ovens; and RF radiation in the industrial environment within a frequency range of 0.3 megahertz (MHz) to 100 Gigahertz (GHz); and communication sources through a registration/license program.

ARRA does not have regulatory authority to enforce rules regarding electricity meters. However, they have the expertise, experience, and ability to measure RF emitting devices.

Radiofrequency Sampling Device

ARRA to provide

Sampling Plan

The measurements of RF can be effected by various factors: traffic on the meter network, proximity to other meters, background RF, direct sunlight, barriers between the meter and the RF sampling device/person. These factors were considered in the design of the sampling plan.

Trial Sampling Event

A trial sampling event was conducted at a residential, single-family home and an apartment complex to determine the feasibility of various sampling parameters. At this event, two distances (three feet and nine feet), use of attenuation and no attenuation, and time intervals (readings every 15 minutes for one hour) were considered. It was determined that spending one hour at each location would significantly limit the number of total sampling locations in the final review. In order to 1) sample more locations, 2) measure the same location multiple times at different times of the day, and 3) sample locations across the state, it was decided to adjust the sampling parameters to measure the "worst case scenario," the maximum radiofrequency a person may be exposed to from the electric meter.

From: Brigitte Dufour
To: Jennifer Botsford; Amber Asbury
Cc: Don Herrington; Hsin-I Lin Cox
Subject: Meeting with ACC - action requested
Date: Friday, October 10, 2014 2:43:06 PM
Importance: High

Amber,

Don stopped by earlier and asked if you could make arrangements (reserve a room and send Outlook appointment) for a meeting here at ADHS for October 27th at 11:00 am. Meeting should be about 90 minutes.

There will be 5 representatives from ACC: please send the Outlook invitation to Jodi Jerich. Jodi will forward the invite to the interested individuals at ACC. Contact info for Jodi:

Jodi A. Jerich, Esq.

Executive Director
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
(602) 542-3931 (office)
(480) 244-7912 (cell)
jjerich@azcc.gov

Thanks,

Brigitte Dufour, R.S.

Chief, Office of Environmental Health
Arizona Department of Health Services
Bureau of Epidemiology & Disease Control
Division of Public Health Preparedness
150 North 18th Avenue
Phoenix, AZ 85007
Phone: (602) 364-3142
e-mail: Brigitte.dufour@azdhs.gov

Betty S. Camargo

From: Del Smith
Sent: Wednesday, June 04, 2014 3:37 PM
To: Ed Stoneburg; Margaret 'Toby' Little
Subject: RE: Message from KMBT_751

Ok. Your suggested language looks good to me.

From: Ed Stoneburg
Sent: Wednesday, June 04, 2014 2:42 PM
To: Del Smith
Subject: RE: Message from KMBT_751

Not that we could find related to wireless transmission of data.

Ed Stoneburg
602 542 0755

From: Del Smith
Sent: Wednesday, June 04, 2014 2:24 PM
To: Ed Stoneburg
Subject: RE: Message from KMBT_751

Nothing in the AWWA manuals for water meters?

From: Ed Stoneburg
Sent: Wednesday, June 04, 2014 2:20 PM
To: Steven Olea; Maureen Scott
Cc: Margaret 'Toby' Little; Del Smith
Subject: RE: Message from KMBT_751

*Redacted attorney/client
Privilege*

Steve/Maureen

[REDACTED]

Ed Stoneburg
602 542 0755

From: Steven Olea
Sent: Wednesday, June 04, 2014 8:39 AM
To: Maureen Scott; Teena Jibilian; Sarah Harpring; Ed Stoneburg
Subject: RE: Message from KMBT_751

[REDACTED]. Thanks.

*Redacted Attorney/Client
Privilege*

From: Sarah Harpring
Sent: Wednesday, June 04, 2014 7:59 AM
To: Maureen Scott; Teena Jibilian
Cc: Steven Olea; Ed Stoneburg
Subject: RE: Message from KMBT_751

Hi, Maureen. I only looked at this quickly, because I have a hearing today, but the [REDACTED]

Also, [REDACTED]

Teena may have additional comments when she reviews this. Thanks.

Sarah

Sarah N. Harpring
Administrative Law Judge
Arizona Corporation Commission
Hearing Division
1200 W. Washington St., Rm. 104
Phoenix, AZ 85007
Phone: (602) 542-4250
Fax: (602) 542-4230
E-mail: sharpring@azcc.gov

From: Maureen Scott
Sent: Tuesday, June 03, 2014 4:45 PM
To: Sarah Harpring; Teena Jibilian
Cc: Steven Olea; Ed Stoneburg
Subject: FW: Message from KMBT_751

Hi Sarah and Teena, here is a [REDACTED]
[REDACTED] Thanks, Maureen

From: bizhub_751_legal@azcc.gov [mailto:bizhub_751_legal@azcc.gov]
Sent: Tuesday, June 03, 2014 4:38 PM

To: Maureen Scott
Subject: Message from KMBT_751

Yvonne X. Watkins

From: Ed Stoneburg
Sent: Monday, August 25, 2014 2:49 PM
To: Jeff Francis; Margaret 'Toby' Little
Subject: RE: Video Proof - APS Is Lying Again

Thanks Jeff!

Ed Stoneburg
602 542 0755

-----Original Message-----

From: Jeff Francis
Sent: Monday, August 25, 2014 2:47 PM
To: Ed Stoneburg; Margaret 'Toby' Little
Subject: RE: Video Proof - APS Is Lying Again

This is the tester he says he's using. It's supposed to be highly directional and he appears to be pointing it at the smart meter, so I suppose you could infer any signal captured by it is coming from the smart meter... but I'm dubious. Would be good if he showed the specific smart meter mfg/model and if the camera panned around a bit to see if there might be other sources of RF.

<http://www.gigahertz-solutions.com/en/Online-Shop/Measurement/High-Frequency/Instruments/HF35C.html>

Jeff Francis
jfrancis@azcc.gov
602.542.7269

-----Original Message-----

From: Ed Stoneburg
Sent: Monday, August 25, 2014 2:40 PM
To: Margaret 'Toby' Little; Jeff Francis
Subject: RE: Video Proof - APS Is Lying Again

Toby

You can't see the units on the meter, but he says he is measuring in microwatts/meter squared, which are the same units that ARRA is measuring in. I told Jodi I cannot conclude anything from this. You don't know what other sources might be around, what units he is measuring in, and as you said the audio signal gain may be set low enough that it makes it seem like there is a lot of variation. However, he never says that it exceeds FCC limits, which I doubt it does.

I did send this over to ADHS and ARRA as an FYI. I had showed ARRA one of his other videos when they were at my house.

Ed Stoneburg
602 542 0755

-----Original Message-----

From: Margaret 'Toby' Little
Sent: Monday, August 25, 2014 2:27 PM
To: Ed Stoneburg; Jeff Francis
Subject: RE: Video Proof - APS Is Lying Again

Is this another case where he has the meter set to "signal" (or whatever you want to call that noise!) at such a low level that it is signaling when it picks up background radiation of various kinds? I didn't listen to the whole thing but is it ever possible to see what the units of those readings are? That may also explain his contention that the output level is variable also.

Do we maybe want to let Jerry take a look at this video and see what his comments are? What does APS say when they see this? If they are in fact not "lying" (which I'm sure they are not), then they must have some explanation for the "signals."

From: Ed Stoneburg
Sent: Monday, August 25, 2014 9:46 AM
To: Margaret 'Toby' Little; Jeff Francis
Subject: FW: Video Proof - APS Is Lying Again

FYI

I haven't talked to Jodi yet.

Ed Stoneburg
602 542 0755

From: Jodi Jerich
Sent: Monday, August 25, 2014 9:25 AM
To: Ed Stoneburg
Cc: Steven Olea
Subject: FW: Video Proof - APS Is Lying Again

Hi Ed:

When you get a moment, can you please watch the YouTube video linked in the email below? Afterward, please give me a call and share your thoughts. Thanks.

Jodi

Jodi A. Jerich, Esq.
Executive Director
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007
(602) 542-3931 (office)
(480) 244-7912 (cell)
jjerich@azcc.gov<mailto:jjerich@azcc.gov>

From: Warren Woodward [mailto:w6345789@q.com]<mailto:[mailto:w6345789@q.com]>
Sent: Sunday, August 24, 2014 11:53 AM
To: Stump-Web; RBurns-Web; Burns-Web; Pierce-Web; BitterSmith-Web

Yvonne X. Watkins

From: Margaret 'Toby' Little
Sent: Monday, August 25, 2014 2:47 PM
To: Ed Stoneburg; Jeff Francis
Subject: RE: Video Proof - APS Is Lying Again

All good, Ed! You are the best.

From: Ed Stoneburg
Sent: Monday, August 25, 2014 2:40 PM
To: Margaret 'Toby' Little; Jeff Francis
Subject: RE: Video Proof - APS Is Lying Again

Toby

You can't see the units on the meter, but he says he is measuring in microwatts/meter squared, which are the same units that ARRA is measuring in. I told Jodi I cannot conclude anything from this. You don't know what other sources might be around, what units he is measuring in, and as you said the audio signal gain may be set low enough that it makes it seem like there is a lot of variation. However, he never says that it exceeds FCC limits, which I doubt it does.

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Ed Stoneburg
602 542 0755

-----Original Message-----

From: Margaret 'Toby' Little
Sent: Monday, August 25, 2014 2:27 PM
To: Ed Stoneburg; Jeff Francis
Subject: RE: Video Proof - APS Is Lying Again

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Do we maybe want to let Jerry take a look at this video and see what his comments are? What does APS say when they see this? If they are in fact not "lying" (which I'm sure they are not), then they must have some explanation for the "signals."

From: Ed Stoneburg
Sent: Monday, August 25, 2014 9:46 AM
To: Margaret 'Toby' Little; Jeff Francis
Subject: FW: Video Proof - APS Is Lying Again

FYI

From: Jennifer Botsford
To: Don Herrington; Brigitte Dufour
Subject: FW: RF Update
Date: Friday, October 24, 2014 8:13:57 AM

I forgot to say... I just called him, and he said he will try to get us some answers before Oct. 31st. I also mentioned we are meeting with ACC on Monday to go over our report.

*Jennifer Botsford, Program Manager for
Environmental Toxicology Program*

*150 North 18th Avenue, Suite 140
Phoenix, AZ 85007*

*(602) 364-3128
jennifer.botsford@azdhs.gov*

From: Jennifer Botsford
Sent: Friday, October 24, 2014 8:13 AM
To: Don Herrington; Brigitte Dufour
Subject: RF Update

Hi,

We are still waiting on ARRA for the following:

1. A description of the device they used to measure RF that includes a discussion about duty cycle, calibration, and why it was appropriate for this study.
2. Review our methods
3. Why their readings are about 100Xs lower than other states – is there an issue with their units?

*Jennifer Botsford, Program Manager for
Environmental Toxicology Program*

*150 North 18th Avenue, Suite 140
Phoenix, AZ 85007*

*(602) 364-3128
jennifer.botsford@azdhs.gov*