ORIGINAL

Warren Woodward
55 Ross Circle
Sedona, Arizona 86336
928 204 6434

0000163221

May 12, 2015

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

Re Notice of Appeal, Decision # 75047, Docket # E-01345A-13-0069

Commissioners;

Per A.R.S. 40-253, as an intervenor in the above docket I hereby appeal your ill-conceived Decision # 75047.

Enclosed is my appeal.

Sincerely,

Warren Woodward

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

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

Thomas Mumaw & Melissa Krueger
Pinnacle West Capital Corporation
400 North 5th Street, MS 8695
Phoenix, AZ 85004

Patty Ihle
304 East Cedar Mill Rd.
Star Valley, AZ 85541

Tyler Carlson
P. O. Box 1045
Bullhead City, AZ 86430

Lewis Levenson
1308 East Cedar Lane
Payson, AZ 85541

Patricia Ferre
P. O. Box 433
Payson, AZ 85547

Michael Curtis
501 East Thomas Road
Phoenix, AZ 85012

Charles Moore
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
6770 W. Hwy 89A, #8O
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

Phoenix FBI
21711 N. 7th Street
Phoenix, AZ 85024

John Lopez, Solicitor General
Office of the Attorney General
1275 West Washington Street
Phoenix, AZ 85007-2926

Don Conrad, Criminal Division Chief
Office of the Attorney General
1275 West Washington Street
Phoenix, AZ 85007-2926

Appeal of Arizona Corporation Commission Decision # 75047
by
Warren Woodward, Intervenor in Docket # E-01345A-13-0069
May 12, 2015

"Crime, once exposed, has no refuge but in audacity." ~ Tacitus

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Introduction

As an intervenor in ACC Docket # E-01345A-13-0069, I hereby appeal the commission's ill-conceived Decision # 75047 for the reasons and facts outlined here in this statement.

In Decision # 75047, the Arizona Corporation Commission (ACC) has outdone itself in lies, lawlessness and legal gymnastics. It seems the ACC will do almost anything to avoid its responsibilities under law and to deny justice.

In this appeal, I will be dissecting the ACC's Decision # 75047 line by line in the order it was written.

Also addressed will be laws I had not previously realized the ACC was breaking and/or ignoring. These laws are state statutes and codes I came across in the course of researching this appeal.

Much of this appeal will be a repetition of my original appeal filed January 5, 2015 in this docket, and of my response to the ACC's "sample orders" which the ACC filed in this docket on March 10, 2015 – and both the appeal and the response were largely repetitions of letters I have written the commission over the last 4 years. (Both my original appeal and my response to the "sample orders" are enclosed as Exhibits A and B, and are included as part of this appeal.)

This constant repetition is unfortunately necessary because the ACC refuses to break its pattern of ignoring issues and laws which it cannot address or is unwilling to acknowledge altogether. Indeed, the ACC's malevolent pattern is so ingrained it can only be considered willful and deliberate. To be blunt, it has become quite clear to me that I am dealing with a pack of incorrigible liars and lawbreakers. That will be proved *in detail* throughout this appeal.

At the end, it will be obvious that ACC Decision # 75047 is arbitrary and capricious, and that the ACC has abused what discretion it may have had. In short, it will be obvious the ACC has no regard for the law and that Decision # 75047 is completely invalid.

ACC Lawlessness Started Before Their Decision Was Made

The ACC's habitual lawlessness manifested itself before Decision # 75047 was even made.

I appealed Decision # 74871 under A.R.S. 40-253.

> 40-253. Application for rehearing; hearing; effect; decision
> A. After any final order or decision is made by the commission, any party to the action or proceeding or the attorney general on behalf of the state may apply for a rehearing of any matter determined in the action or proceeding and specified in the application for rehearing within twenty days of entry of the order or decision. Unless otherwise ordered, the filing of such an application does not stay the decision or order of the commission. If the commission does not grant the application within twenty days, it is deemed denied. If the commission grants the application, the commission shall promptly hear the matter and determine it within twenty days after final submission.

Here's what actually happened.

I appealed within the 20 day period. The ACC then had 20 days to deal with my appeal. The ACC could have ignored my appeal altogether and after 20 days that would have meant I was denied.

Twenty days would have expired on January 26, 2015. Instead the ACC met January 22 in a staff meeting. (Staff meeting agendas and schedules are available for verification at the ACC website, specifically here: http://www.azcc.gov/Divisions/Administration/Meetings/Agendas/2015/2015StaffMeetings.asp .)

At that staff meeting the ACC granted both Pat Ferre's and my separate appeals. At the same time the ACC agreed to postpone making a decision. That's not how the ACC put it but that's in effect what happened.

In Decision # 75047, here's how the ACC described their action at the January 22nd staff meeting:

> 14. On January 22, 2015, we granted both applications for rehearing for the limited purpose of further consideration.

Note that A.R.S. 40-253 does not give the ACC the discretion of "limited purpose." A.R.S. 40-253 is clear. "If the commission grants the application, the commission shall promptly hear the matter and determine it within twenty days after final submission."

So, on January 22, 2015, my appeal was granted. However, the ACC did *not* "promptly hear the matter and determine it within twenty days." Instead, the ACC waited 39 days until March 2 to postpone determining it again. Note that A.R.S 40-253 does not give the ACC that discretion either.

At its March 2, 2015 meeting, the ACC, instead of determining the matter, voted to ask its Legal Division to devise some "sample orders of alternative dispositions" – in other words some options to deal with my appeal. The March 2nd meeting in which this was done was another staff meeting.

The "sample orders" were filed March 10th but were not decided upon until April 13th, a full 42 days *after* the ACC's previous 39 days of stalling. Again, note that A.R.S 40-253 does not give the ACC that discretion.

Once more, the law is clear: "If the commission grants the application [which it admits it did on January 22, 2015], the commission shall promptly hear the matter and determine it within twenty days after final submission." The law does not say, "Except when Warren Woodward is appealing in which case you can take as long as you like."

Compounding its lawlessness, note also that in Decision # 75047 the ACC attempted to "re-grant" that which it already granted on January 22nd. Amazingly, the ACC states in Decision # 75047, "IT IS THEREFORE ORDERED that the Applications for Rehearing filed by Warren Woodward and Patricia Ferre are hereby granted, as discussed herein."

Further compounding its lawlessness, this "re-granting" would postpone hearing and determining the matter to some undefined future date by illegally shuffling the matter into APS's next

rate case which, the Decision notes, might be as early as June of this year or might not be for 18 to 24 months – either way, obviously not the 20 days required by law.

Like I said, amazing. But wait, there's more.

Decision # 75047 states, "IT IS FURTHER ORDERED that Decision No. 74871 is specifically rescinded and abrogated pursuant to A.R.S. 40-253(E), and relief is granted on an interlocutory basis, as discussed herein."

The key words above are "pursuant to A.R.S. 40-253(E)." Here's what the E section of A.R.S. 40-253 states:

> E. If, after a rehearing and a consideration of all the facts, including those arising since the making of the order or decision, the commission finds that the original order or decision or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate, change, or modify the order or decision, and such order or decision has the same force and effect as an original order or decision, but shall not affect any right or the enforcement of any right arising from or by virtue of the original order or decision, unless so ordered by the commission.

The key words in section E are "after a rehearing and a consideration of all the facts."

Those words are key because *there was no rehearing.* Staff meetings are not rehearings.

Those words are key because *there was no "consideration of all the facts."*

So the ACC violated A.R.S. 40-253(E) by not having a rehearing and by only very briefly discussing the issue in some staff meetings. Those staff meeting discussions also had nothing to do with "all the facts" of the matter, but everything to do with how the ACC might postpone the legal predicament in which my original appeal had placed it.

At the last of those staff meetings the ACC spent about an hour in executive session but, because there is no record of what was said in that session, we have no idea if "all the facts" were considered or not. Additionally, a rehearing, unlike an executive session, is open to the public and all parties. Thus, at no time would an executive session seem to fit under the spirit or the word of A.R.S. 40-254(E). Judging by how lawlessly convoluted the ACC's subsequent Decision # 75047 turned out, as well as by the commissioners' tortured public dialogue after their executive session, I suspect the majority of the executive session time was spent trying to weasel out of the pickle in which the commissioners found themselves.

The way the ACC has doubled down on lawlessness in its recent decision reminds me of what Tacitus said, " Crime, once exposed, has no refuge but in audacity."

Since the ACC's crime spree has reached the audacious level, the Phoenix FBI and the investigators at the Arizona Attorney General's Office who are handling the current ACC corruption scandal will be included on the Service List for this docket. The copious lawbreaking involved in Decision # 75047 encapsulates much of what's wrong at the ACC, and the FBI and AG should know

about it. Perhaps the FBI or the AG will put a stop to the ACC's blatant disregard for law. God knows I've tried!

Other Laws Broken

Before I get to dissecting Decision # 75047 line by line, let's take a quick look at some other rules the ACC is ignoring and is therefore complicit in violating along with its partner in crime, APS.

As we review the multiple violations below, keep in mind that any law or laws that the ACC does not enforce places it in violation of A.R.S. 40-421, "Enforcement of laws relating to public service corporations,"

> 40-421.A – The commission shall require that the laws affecting public service corporations, the enforcement of which is not specifically vested in some other officer or tribunal, are enforced and obeyed, and that violations thereof are promptly prosecuted and penalties due the state therefor recovered and collected, and for such purposes may bring actions in the name of the state.
> B. Upon request of the commission, the attorney general, or the county attorney of the proper county, shall aid in any investigation, hearing or trial conducted under the provisions of this chapter and shall institute and prosecute actions or proceedings for enforcement of the provisions of the constitution and statutes of this state affecting public service corporations and for punishment of all violations thereof.

Not only does the ACC have its own Legal Division, but positions elsewhere at the ACC are also staffed by lawyers. Consequently, with the amount of lawyers at the ACC, we can truly say in this instance that: *Ignorance of the Law is no excuse.* So how come none of these violations were sent to the Attorney General for prosecution? What is the excuse for the ACC allowing the violations? A love affair with APS? What?

> **A.A.C. R14-2-208.A.2** – The entity having control of the meter shall be responsible for maintaining in safe operating condition all meters, equipment, and fixtures installed on the customer's premises by the entity for the purposes of delivering electric service to the customer.

Note that the rule does ***not*** permit meters to be in "not likely to harm" operating condition. It says "safe operating condition." Yet, "not likely to harm" was how the Arizona Department of Health Services rated "smart" meters in the study it conducted at the ACC's request. So we can add A.A.C. R14-2-208.A.2 to A.R.S. 40-361.B and A.R.S. 40-321.A as the laws the ACC and APS are violating because "smart" meters are not safe. (For a discussion of the difference between "safe" and "not likely to harm" as well as for the wording of A.R.S. 40-361.B and A.R.S. 40-321.A, see page 33 of my detailed report on the ADHS study which is enclosed as Exhibit C.)

> **A.A.C. R14 -2-209.A.9** – Meters shall be read monthly on as close to the same day as practical.

APS has freely admitted to the commission that their "smart" meters read electricity usage six times per day. (See page 12, APS Response to Question 12, in the docket here:

http://images.edocket.azcc.gov/docketpdf/0000154543.pdf)

Six times per day is *not* monthly. Note that the rule is *not* about when bills go out, nor is it about how the meter is read. The rule specifically addresses *when* meters can be read. It does *not* say six times per day. It says monthly.

> **A.A.C. R14-2-210.A.1** – Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days without customer authorization. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.

Six times per day is clearly a great deal less than the "not less than 25 days" specified in the regulation. "Smart" metered customers have *not* authorized that dramatic increase in meter reading.

Just because APS is capable of reading meters at quicker intervals does mean the law has changed. I have vehicles capable of going much quicker than the speed limit but that does not mean speed limits have changed or no longer apply.

Just because the meter reading is not done on site by a human being does not mean the law has somehow magically changed either.

As I pointed out in my original appeal, it is only miniaturization and automation that have made APS's violations seem invisible. Because the ACC has allowed these violations to occur for years, the ACC is complicit in the violations and, as previously pointed out, is also in violation of both A.R.S. 40-421(A) and A.R.S. 40-422(A).

> **A.A.C. R14-2-201.25** – "Meter." The instrument for measuring and indicating or recording the flow of electricity that has passed through it.

"Smart" meters do not fit that definition. The chapter entitled "**Airbrushing the "Background" – Trespass & Theft**" from my original appeal explains why. What an electric meter is and is not is at the heart of the entire "smart" meter fiasco. So I have reproduced that chapter in full, below.

> **Airbrushing the "Background" – Trespass & Theft**
>
> The actual metering of electricity is a fraction of the overall functions of a so-called wireless "smart" meter. Not just measuring devices, "smart" meters are also radio transceivers and relay antennas. Calling these devices "meters" distracts from the fact that they are utility company communications equipment designed to not just gather and transmit *your* data but also to move the data of others. Utilities have quite simply stolen ratepayers' property in order to establish their own private communications network to move other people's data and to implement their business plan.
>
> Miniaturization and automation of radio components has enabled those

components to be hidden unnoticed in a case that looks like an electric meter and not like a radio transceiver. The point I am making is that if radio transceivers and antennas were as large as they were in say, the 1920s, and required a human operator as in the 1920s, then it would be obvious to everyone what the utilities were doing. "Out of sight, out of mind", plus giving these devices a delusory name – "smart" meter or AMI meter – that has nothing to do with a radio transceiver, helps alter perception and perpetuate the deception. *Those who control the language control the debate.*

A huge unmentioned, unaddressed issue and major violation is the fact that placement of a radio transceiver and relay antenna (*of any size*) on anyone's private property without permission or compensation is trespass and theft. When done by a government owned utility such as SRP or any one of the municipally owned utilities in Arizona it is also an illegal takings under the 5th Amendment of the U.S. Constitution.

Again, the ACC has been apprised of this numerous times both in writing and at meetings but they have simply ignored the issue as if it does not exist. So it is no surprise that the ACC has left this serious issue out of the "Background" of its "Findings of Fact."

Payment to avoid this theft, this trespass, this takings, is extortion. It is not "opt out."

It is worth noting that all the other violations and abuses caused by "smart" meters start with this initial property violation. In other words, once one has lost their property rights, they have lost all others as well. This is why someone's home is supposed to be their castle.

Findings of Fact, or Just Plain Lying?

In both my original appeal and in my response to the "sample orders," I have called the ACC's Findings of Fact sections "Errors and Omissions of Fact & Findings of Fantasy." In great detail and with supporting evidence, I have pointed out why. However, despite my best efforts, many of those same wrong ACC Findings of Fact appear again, uncorrected, in Decision # 75047. Thus, the ACC is incorrigible, and I can only conclude that the ACC is hellbent on just plain lying – lying by omission, lying by half truth, lying by misrepresentation and just plain lying outright – to avoid truth and justice.

Of course it will be for a court to decide, but there is such a consistent pattern of willful lying in Decision # 75047 that it appears the commissioners may have earned themselves class 5 felonies for violating A.R.S. 13-2311, "Fraudulent schemes and practices; wilful concealment; classification."

> 13-2311.A – Notwithstanding any provision of the law to the contrary, in any matter related to the business conducted by any department or agency of this state or any political subdivision thereof, any person who, pursuant to a scheme or artifice to defraud or deceive, knowingly falsifies, conceals or covers up a material fact by any trick, scheme or device or makes or uses any false writing or document knowing such writing or document contains any false, fictitious or fraudulent statement or entry is guilty of a class 5 felony.

B. For the purposes of this section, "agency" includes a public agency as defined by section 38-502, paragraph 6.

We encounter our first lies in Non-Fact # 3.

Non-Fact # 3 – Lying, lying by omission, and misrepresentation

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.

First of all, as I have explained repeatedly both in my original appeal and in my response to the "sample orders" (but to no avail), not all concerned customers are in "groups." This is not a huge lie on the ACC's part but it *is* totally untrue nevertheless – and the ACC insists on repeating it. A Finding of Fact should be a fact. Can we all agree on that? It is beyond pathetic that the ACC can't even get that simple point correct, especially after being told repeatedly.

Also and again as I explained both in my original appeal and in my response to the "sample orders," not all customers may want an analog meter; some may want a digital non-transmitting meter for Time Of Use (TOU) 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. So the ACC is lying by omission by not including those customers. I can only guess the ACC's omission is because APS, in their original application, did not want TOU customers to have that option. In any case, discrimination amongst customers is prohibited by A.R.S. 40-334.A & B.

In what is more lying by omission, APS customers have raised many other concerns than just health. These concerns are listed and explained on pages 4 through 15 of my original appeal (attached as Exhibit A). Again, the ACC needs to read and comprehend my original appeal and realize that ignoring issues does not mean they will magically go away.

Finally, one can only wonder when the ACC will stop misrepresenting the "smart" meter issue and stop lying about "the costs of retaining analog meters." There are no "costs of retaining analog meters" because, according to ACC Decision # 69736, "smart" meter installation is on a voluntary basis. Customers who have not "opted in" for a "smart" meter have neither seen nor asked for a change in their level of service. The only costs to consider are the costs borne by these same customers for subsidizing the vastly more expensive "smart" meter installations which they have refused. The ACC, in its predictable bias in favor of APS and in its predictable inability to follow laws including its own decisions, is attempting to turn the reality of the situation upside down.

This has all been explained in great detail in my original appeal on pages 9 through 17 which, characteristically, the ACC has obviously chosen to disregard. As well, it was repeated again on page 2 of my response to the "sample orders."

Non-Fact # 4 – Finding of Fact or a Promotion of APS Propaganda?

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.

Why aren't these "cost estimates" called "*alleged* cost estimates?" Is this a Finding of Fact or a Promotion of APS Propaganda?

"Cost estimates" implies some kind of proof or basis upon which the estimates were made yet none is existent. In reality, APS's "cost estimates" are simply a baseless request for money. This point was made in detail on page 10 of my original appeal and page 3 of my response to the "special orders." As usual, the ACC ignored that point and has continued to present APS's numbers as though they were legitimate.

At this point it is also worth mentioning how disingenuous it was for APS to initially give an "estimate" of $30 per month , then, over two years later and right before the ACC meeting in which the fee was to be decided, throw out a monthly number that was 30% lower. As I elaborated in my response to the "sample orders:"

> ... 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.

APS's abuse of customers and the ACC's illegal response to same was discussed in detail in my original appeal in the chapter entitled **Commission Fantasy – Commissioners cut APS slack and violate state statutes**. In it I explained how the ACC violated both A.R.S. 40-203 and A.R.S 40-422(A). In the course of researching this appeal, I now realize that the ACC also violated A.R.S 40-421(A), the law spelled out on page 5, above, that requires the ACC to enforce the law.

Back to Non-Fact # 4, "Customers who choose to opt-out of AMI metering" is incorrect, dishonest phrasing. In accordance with ACC Decision # 69736, such customers should be described as customers who refuse to opt in to voluntary "smart" metering. By using APS's incorrect "opt out" terminology, the ACC is promoting the APS agenda of wrongly framing such customers as problematic "cost causers," and as customers who had somehow automatically chosen a "smart" meter (without actually having done so). In short, use of such misleading terminology is participation in a lie.

Non-Fact # 6 – Lying by half-truth, and more misrepresentation

> 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.

First off, notice that when the public comments it's an "allegation," but that APS was treated quite differently with its "estimated costs" in Non-Fact #4, above.

Secondly, Non-Fact # 6 is a classic example of the ACC lying by half truth. Important issues "among the comments" – and discussed in detail in my original 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? In any case, it is not factual to omit them from this so-called Finding of Fact.

Particularly galling is the ACC's attempt to minimize an individual's right to privacy by incorrectly renaming that right "individual privacy ***interests***." There was not a single comment filed that complained about "smart" meters violating "individual privacy ***interests***" because we do not have individual privacy "interests." We have individual privacy ***rights***. People complained about their rights being violated, not their "interests." A hobby is an interest. Privacy is a right.

In Non-Fact # 6 the ACC has also incorrectly characterized comments made about the refusal fee. The 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 in person by no less an authority than retired Arizona Superior Court Judge Joe Howe.

The ACC was told all of the foregoing about Non-Fact # 6 previously on page 3 of my response to the sample orders but, typically, the ACC has chosen lying and misrepresentation instead of correction.

Non-Fact # 7 – Not the whole truth

> 7. In a related proceeding (Docket No. E-00000C-ll-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.

You are lying, ACC. You considered ***some*** of the issues related to "smart" meters in Docket # E-00000C-ll-0328. Many of the issues were completely ignored as I have already mentioned earlier in this appeal and also in detail in my original appeal. Additionally, of the issues that were in fact considered, they were not considered thoroughly. That was entirely due to the ACC's willful disinterest, not time constraints.

The ACC did ask the ADHS to conduct a study but the ACC neglected to mentioned in Non-Fact # 7 that, most improperly, there was no written agreement between the ADHS and the ACC for the "smart" meter study. Indeed, emails I obtained via a public records request show that the ACC improperly influenced the study before it was even voted for by the commission, and also while it was being researched and written. That whole story was already given to the commission starting on page 4

in my response to the "sample orders."

Non-Fact # 9 – More lying, and more lying by half-truth

> 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.

In my response to the "sample orders" regarding this very same Non-Fact # 9, I wrote, "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**."

Because the ACC has previously been schooled several times on the lack of an FCC "standard" yet is still referring to one in this Decision as though one existed, I must rule out ignorance as the reason and conclude that the ACC is purposely misleading. In other words, the ACC is lying again.

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 report on the ADHS study, **A Pattern of Incompetence and Fraud** (Exhibit C).

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

The faulty equipment and methodology was brought to the commission's attention several times, both in writing and in person at an Open Meeting, but, in another example of the commission's overall willful negligence concerning the "smart" meter issue, it showed no interest and never pursued the matter.

In another example of the ACC lying by half truth, Non-Fact # 9 refers to the ADHS study but describes only one goal of that study: determining whether smart meters were operating within FCC guidelines.

Here are the ADHS study's goals as written in the study itself:

> "The goals of this report are 1) to determine whether RF exposure from electronic meters on residences, including single family homes and apartment complexes are within the FCC standards or are at levels to cause public health concern; and 2) to determine whether the current body of peer-reviewed literature has found an association between RF exposure from low level RF exposure and adverse health effects."
> (page 1, 3rd paragraph, here: http://images.edocket.azcc.gov/docketpdf/0000157691.pdf)

Note that the ACC has left out the second part of goal # 1, "or are at levels to cause public health concern," as well as goal # 2 in its entirety. I submit that the ACC's omission was done purposely so

that the ACC could more easily wash its hands of the health effects caused by "smart" meter microwave radiation. Again, that hand washing is discussed fully in my previous appeal on page 21, the chapter entitled **Commission Fantasy – The commissioners try to hide in FCC Fantasy Land**.

Non-Fact # 11 – The ACC is flat out lying again

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

The ACC is flat out lying again. There is no mention whatever of the ADHS study in Decision # 74871 – None, ZERO, Nada, Zilch.

I pointed that out to the ACC when the ACC made this same bogus assertion in its "sample orders," but as anyone can see, I had no effect. Brazenly, the lie has been repeated in Decision # 74871 as a "Finding of Fact."

Again, Tacitus nailed it 1,900 years ago: " Crime, once exposed, has no refuge but in audacity."

Actually, the ADHS study was thrown under the bus by the ACC. 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 original appeal.)

Non-Fact # 15 – Yet more flat out lying

> 15. We subsequently considered this matter at open meetings in March and April.

More absolute audacity. More outright lying. The meetings were *not* open meetings. They were staff meetings.

According to the ACC website, "*Open Meetings are regularly scheduled forums where Commissioners make decisions.*" Thus, "open meetings" coupled with the word, "considered," creates a false impression of deep deliberation.

I have been to ACC staff meetings. They are different than open meetings which is why they are named differently. They are hardly "forums." The public is seldom invited to talk at any of them. The staff meetings usually seem to involve minor ACC business that can be handled without a lot of discussion or time. Indeed, the March staff meeting mentioned in Non-Fact # 15 was held directly after the commission's Open Meeting on the same day. Pat Ferre's and my appeals of Decision # 74871 were discussed publicly for less than 3 minutes. The issues raised in our appeals were not discussed nor were any issues related to "smart" meters. Likewise, so-called "consideration" at the April staff meeting lasted about 14 minutes. Again, in that meeting our appeals were discussed but not the issues raised in them or any other issues related to "smart" meters.

At both of those staff meetings the ACC spent additional time in executive session during which, as I have noted previously in this appeal, it is more likely the commissioners were plotting with their lawyers about how to avoid their responsibilities under law and how to make our appeals go away

instead of actually considering the various serious issues involving "smart" meters that the ACC has given little – or absolutely no – consideration to over the last 4 years.

So, the statement, "We subsequently considered this matter at open meetings in March and April," is a total lie in more ways than one.

Non-Fact # 16 – More misrepresentation

> 16. The issues presented by APS's proposed opt-out tariff have attracted significant public attention. The comments that we have received from the public show that some individuals continue to be concerned about the various issues that may surround smart meters.

Issues that *may* surround "smart" meters?! Are you kidding me?

First of all, they aren't issues that "may surround" meters. They are issues *caused* by "smart" meters – and the so-called "opt-out tariff" is actually extortion.

Secondly, of course "some individuals continue to be concerned" because, after 4 years of those individuals complaining and presenting evidence to the ACC, the ACC has dithered and done nothing but waste those individual's time.

A truthful Finding of Fact #16 would be, "APS asked for money from customers who wanted to avoid the various multiple harms and threats of harm inherent in APS's "smart" meters, and that attracted significant public attention. The comments we have received from the public show that it was a huge mistake to allow the technology in the first place."

Non-Fact # 17 – More audacious lying nonsense

> 17. Although APS has presented its application as a tariff filing, we think that these issues would benefit from the type of comprehensive review that is conducted in a general rate case. A tariff filing proceeding, which is typically processed in a more abbreviated fashion, is ill-suited to address the issues presented herein.

More audacious lying nonsense! If the ACC really thought a rate case was better then it would have rejected APS's tariff filing from the start.

APS filed March 22, 2013 – over 2 years ago. The ACC is just now realizing that the filing should be in a rate case and not a tariff filing?

Here's the *real* Finding of Fact:

Docket # E-00000C-11-0328, the so-called "Generic Docket for the Investigation of Smart Meters," was opened August 29, 2011, over a year and a half *before* APS's filing. During that year and a half (and to this day), scores of people filed comments in that docket expressing their problems with, and complaints about, "smart" meters, and providing evidence for same.

Additionally, two all-day "smart" meter ACC workshop meetings were held before APS filed. Both meetings were packed with people complaining and providing evidence about all aspects of "smart" meters. People who could not be there in person phoned in their complaints and problems.

So the ACC had o*ver a year and a half* of complaints and evidence about all manner of "smart" meter issues. Then APS filed for their extortion fee. Then the ACC had *over two more years* of complaints about all manner of "smart" meter issues. But only just now the ACC has come to the sudden realization that "these issues would benefit from the type of comprehensive review that is conducted in a general rate case?" It seems obvious that the ACC is being disingenuous to say the least.

Non-Fact # 19 – More audacity

> 19. We believe that our consideration of this matter will be aided by the full spectrum of information that is included in a general rate case. We will therefore stay this proceeding until APS files its next general rate case, at which time the two cases may be consolidated or processed in tandum [sic].

"Full spectrum of information?" As I pointed out above, the ACC has had almost 4 years worth of full spectrum information. I and many others have buried the ACC in information. The ACC had enough information to say grace over about 2 years ago. Then the ACC commissioned a study that took over a year and did not find "smart" meters to be safe. If that's not the "full spectrum" I don't know what is.

"We will therefore stay this proceeding until APS files its next rate case …." More audacity! No, ACC, you will not "stay" anything because A.R.S. 40-253 does not allow it.

Non-Fact # 20 – The ACC is in clear violation A.R.S. 40-253(E)

> 20. Pursuant to A.R.S. 40-253(E), we specifically rescind and abrogate Decision No. 74871 at this time.

See page 4 above. The ACC is in clear violation A.R.S. 40-253(E).

Non-Fact # 21 – No discrimination!

> In the interim, APS should continue to provide analog meters to those customers who ask for them.

Hey ACC, you forgot to mention non-transmitting digital TOU meters for those customers who request them. I would hate to see the ACC or APS discriminate and violate yet another law like say, A.R.S. 40-334.A & B.

Non-Fact # 22 – The ACC is in fantasy land

> 22. We will also require APS to track the unrecovered 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

unrecovered costs, and may request recovery of any reasonable and prudent unrecovered costs in its next rate case.

The ACC is in fantasy land.

As much as APS and the ACC would like there to be, there can be no "unrecovered costs" of "continued provision of analog meters" because such costs do not exist.

One more time for the slow-learners: ACC Decision # 69736 clearly made "smart" meters a voluntary, "opt in" program. Decision # 69736 did *not* make "smart" meters the "standard" or default meter in Arizona. Persons who have not asked for a "smart" meter or who refuse a "smart" meter are therefore not creating any new costs. Their level of service that they signed up for has not changed or increased so they owe APS nothing extra. The cost of meters for these customers and "any other costs attributable to providing customers with analog meters" has been baked into APS's rate cake for decades. These customers owe nothing for meter reading either, having paid – and continuing to pay – the monthly meter reading fee that has been on their bills since ever. And let's get real, if APS was truly concerned about the cost of meter reading they would not have been sending meter readers out in full-size pick-up trucks all these years.

If anything, APS should be held accountable for removing and ruining about a million perfectly good meters.

If anything, customers who refuse "smart" meters should get a refund for subsidizing "smart" meters and a "smart" grid they do not want, won't use and never asked for.

APS's decision to "smart" meter its service territory was reckless, and it was uncalled for by its customers. No one "opted in." Arrogantly, illegally, APS took it upon itself to "opt" everyone "in" without their informed consent. So APS's decision is entirely APS's problem.

As I wrote in my response to the "sample orders:"

> "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."

Non-Fact # 23 – Shunting my appeal into APS's next rate case is illegal

> 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 [sic] 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.

Why wasn't a list like this for "smart" meter costs developed before the first "smart" meter was installed? Why was there no similar desire at the ACC to scrutinize "smart" meter and "smart" grid costs? That was called for back in 2007 with ACC Decision # 69736 but never done.

Also, since both APS and the ACC are obviously biased in favor of "smart" meters and cannot be trusted, any investigation into "smart" meters involving a list such as the above should be carried out by an independent accounting firm such as was done in Germany by Ernst & Young. Better yet, save the money that would cost and just use the results Germany got which was that "smart" meters do *not* pencil out. (See **Estimated Costs – Who is "socializing" whom?** on page 13 of my original appeal.)

In any case, the ACC needs to cancel its rate case scheme along with Non-Fact # 23 because, as I have already pointed out, shunting my appeal into APS's next rate case is illegal.

CONCLUSIONS OF LAW – more like DELUSIONS OF LAW

Delusion of Law # 2

2. The Commission has jurisdiction over APS and over the subject matter of this case pursuant to Article XV of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

As I wrote in my previous appeal when this same delusion of law, this same lie, was asserted by the ACC:

Wrong! The commission has jurisdiction over Arizona Public Service Company, but it does *not* have jurisdiction over people's private property. The commission does *not* have the authority to allow APS to take people's property for the purpose of establishing APS's own communications network. APS has a property easement for a measuring device for the purpose of billing for the electrical service it supplies to that property. APS does *not* have an easement to operate a communications network that moves not just the property owner's information but the information of others. In other words, APS cannot use my property to send, receive or relay messages that do not even involve me and have nothing to do with the supply of electricity to my house.

Delusion of Law # 3

> 3. The Applications for Rehearing filed by Warren Woodward and Patricia Ferre are hereby granted, as discussed herein.

Wrong! As I pointed out in detail on pages 3 and 4, above, the "Applications for Rehearing filed by Warren Woodward and Patricia Ferre" were already granted last January 22. According to A.R.S. 40-253, the ACC does not get to "re-grant."

Delusion of Law # 4

> 4. Decision No. 74871 is specifically rescinded and abrogated pursuant to A.R.S. 40-253(E), and we hereby grant relief on an interlocutory basis, as discussed herein.

Wrong! The ACC is actually in violation A.R.S. 40-253(E) "as discussed herein" – see page 4, above.

Besides, nobody asked for "interlocutory" relief. In the ACC's typical audaciousness, its typical arrogance of power, it completely and totally ignored the relief I requested in my original appeal. Instead it invented its own contorted relief options, tarted them up with legalese and chose amongst them. Forgetaboutit!

Delusion of Law # 5

> 5. It is reasonable to allow APS to defer the reasonable and prudent unrecovered costs discussed in Finding of Fact No. 22 for possible recovery in its next rate case.

Wrong! It is totally unreasonable for all the reasons discussed herein.

Delusion of Law # 6

> 6. APS's Application in this docket is hereby stayed until the filing of APS's next general rate case.

Wrong! You don't get to stay, sit, bark or roll over. You've been bad, ACC, and A.R.S. 40-253 does not allow you to stay.

The *Real* Conclusion of Law and the ACC's only legal option

One of the themes that ran throughout my response to the "sample orders" was that the ACC needed to read and reread my original appeal until full comprehension was achieved. As evidenced by this thoroughly deceitful Decision # 75047 and the ACC's illegal misconduct leading up to this fatally flawed Decision, that theme is still true.

The *real* Conclusion of Law is that the ACC has to follow and enforce the law as it's written. As such, the ACC needs to comprehend that it has but one legal option and that is to grant the relief I requested last January 5th. Here is what I wrote then. It was true then; with only slight changes, it is true

now.

The evidence presented in this appeal is clear. It fully substantiates that the ACC has neither 'fully considered these matters' nor 'balanced the public interest.' Additionally, highly questionable if not illegal practices have been engaged in by the ACC during this whole "smart" meter matter. As well, it looks to me that, anyone who signed this Decision is complicit in extortion, fraud, trespass, theft, endangerment of public safety, discrimination, violation of other statutes and codes, violation of ACC Decisions and procedures, willful negligence, and are in violation of their Oaths of Office.

Over a period of several years, all the signatories were repeatedly given the information contained in this appeal, and were repeatedly warned by me that their negligent actions may have legal repercussions. In short, the signatories have no more excuses.

I believe there may be a way out for the signatories however.

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.

Fact: There is a plethora of "smart" meter issues the ACC has not addressed or considered, and the only way those issues can be successfully resolved is for the ACC to recall all wireless "smart" meters under its jurisdiction at once.

Supreme Fact: "Smart" meters harm through a number of mechanisms and means.

Even the ADHS "health" study, flawed as it was, did not conclude that "smart" meters were safe. The finding of the ADHS study – *a study the ACC itself asked for* – concluded "smart" meters are "not likely to harm." "Not likely to harm" does not equal safe. *"Not likely to harm" means that harm is in fact a possibility.*

If I have to pay to avoid something that may harm me, that is extortion. Payment to avoid harm – or even the threat of harm – defines extortion. Therefore the ACC must vacate its extortive Decision # 74871, and the ACC must recall all wireless "smart" meters under the ACC's jurisdiction at once.

Any new, wired or other type "smart" meter program must follow State law by being truly voluntary ("opt in") with the fully informed consent of the customers as well as be fully vetted by independent cost/benefit and safety analyses.

This wrong, lawless, careless, deficient, negligent and dangerous Decision # 74871 is hereby appealed by me, today, January 5, 2015. Immediate relief is required as described above.

Like I said above, the only way "smart" meter issues will ever be successfully resolved is for the

ACC to recall all wireless "smart" meters under its jurisdiction at once. "Smart" meters have *not* been found safe and will always involve the multiple violations, harms and threats of harm discussed in this appeal and in my original appeal. As such, commissioners who allow continued installation and use of "smart" meters will be complicit in those multiple violations, harms and threats of harm. Try as you might (as you have in Decision # 75047), you cannot circumvent that.

You have no more excuses.

You have wasted enough time.

The 20 days you had under A.R.S. 40-253 expired long ago.

You have signed your names to too many lies.

You have broken – and *are breaking* – too many laws.

As I said above though, I believe there may be a way out for the commissioners. You need to grant the relief I requested and you need to do it now.

In appealing this fatally flawed Decision # 75047, 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.

Any new, wired or other type "smart" meter program must follow State law by being truly voluntary ("opt in") with the fully informed consent of the customers as well as be fully vetted by independent cost/benefit and safety analyses.

This wrong, lawless, careless, deficient, negligent, dangerous, arbitrary & capricious Decision # 75047 is hereby appealed by me, today, May 12, 2015. Immediate relief is required as described above.

Warren Woodward
Intervenor in Docket # E-01345A-13-0069
55 Ross Circle
Sedona, Arizona 86336
928 204 6434

Enclosed Exhibits also available online here:
A) Appeal of ACC Decision # 74871 (http://images.edocket.azcc.gov/docketpdf/0000159183.pdf)
B) Response to Filing of Sample Orders (http://images.edocket.azcc.gov/docketpdf/0000162532.pdf)
C) A Pattern of Incompetence and Fraud (http://images.edocket.azcc.gov/docketpdf/0000158210.pdf)

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Exhibit A

Appeal of Arizona Corporation Commission (ACC) Decision # 74871
by
Warren Woodward, Intervener in ACC Docket # E-01345A-13-0069
January 5, 2015

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FINDINGS OF FACT
More like Errors and Omissions of Fact & Findings of Fantasy

As an intervener in ACC Docket # E-01345A-13-0069, I hereby appeal the commission's ill-conceived Decision # 74871 for the reasons and facts outlined here in this statement.

The so-called "Findings of Fact" section of the Decision should be more aptly named "Errors and Omissions of Fact & Findings of Fantasy."

Amongst other points, this appeal will reveal the vast amount of errors and omissions in the Decision. These errors and omissions render as false the commissioners' claim to have "fully considered these matters." This appeal will also expose the legal Fantasy Land that the commissioners must inhabit in order to come to the conclusions they did and falsely claim they are "balancing the public interest."

In short, the underlying assumptions of the Decision have no basis in law or fact, and so the Decision's conclusions are false.

As I proceed, I will address the Decision in the order that it is written. The Decision's first section is "Background."

Airbrushing the "Background" – Why?

There is one bit of truth in the "Background" section of the Decision. It is true that "health effects of radio frequency" are a concern for APS customers.

However, other important "smart" meter related issues have been completely omitted as if they do not exist. If the issues do not exist, then I suppose the commissioners think they do not have to address them and can declare, as they have in this Decision, that they have "fully considered these matters." Also, I suspect these omissions are deliberate for at least the following reasons.

Overall, in the more than 3 years I have been investigating all aspects of the "smart" meter issue, both ACC staff and commissioners have shown incredible ignorance of "smart" meter related issues and a decided bias in favor of "smart" meters and APS.

In his only substantive docket submission on the "smart" meter issue, ACC Utilities Division director Steven Olea chose to submit three obvious "smart" meter propaganda pieces (See: http://images.edocket.azcc.gov/docketpdf/0000146288.pdf). Also, at one point, Olea revealed that he did not even know the difference between microwave radiation and magnetic field. After working at the ACC for three decades, how can he regulate something when he doesn't even know what it is?

ACC chairman Bob Stump sits on the Board of Directors of the National Association of Regulatory Utility Commissioners (NARUC), an outfit that, amongst other things, touts "smart" meters and all the false promises of the "smart" grid.

The industry sponsored thrice yearly NARUC meetings are well attended by both ACC commissioners and ACC staff, many of whom sit on NARUC subcommittees.

In addition to Stump sitting on the Board of Directors, the following ACC people sit on NARUC subcommittees:

Commissioner Susan Smith
Utility Division director Steven Olea
Utility Division assistant director Elijah Abinah
Utility Division assistant director John LeSeuer
Chief Administrative Law Judge Lyn Farmer
Assistant Chief Administrative Law Judge Dwight Nodes
Legal Division director Janice Alward
Legal Division attorney Charles Hains
Legal Division attorney Wesley Van Cleve
Legal Division attorney Maureen Scott
Legal Division attorney Angela Paton
Chief of Financial and Regulatory Analysis James R. Armstrong
Executive Consultant Bob Gray.

I don't know how else to explain the spectacular ignorance displayed by the ACC over the last several years, and the ACC's unwillingness to thoroughly investigate APS's claims about its "smart" meters and the customer concerns about same, unless it is the money APS's parent company, Pinnacle West, and other utilities give to political campaigns. According to FollowTheMoney.org, the online database of disclosed political contributions, Pinnacle West, is Arizona's most generous corporate donor to political campaigns. While Pinnacle West might not donate to ACC commissioner campaigns, they certainly give plenty to the commissioners' political party. Of course, that's not illegal (yet), but it may help explain things.

The Decision mentions just two of the customer concerns about "smart" meters, and it gets one of them wrong. Since there are many more customer concerns than just two, leaving out all the others as if they are nonexistent has the effect of marginalizing and minimizing customers' concerns.

The culture, the tone of any organization of human beings is often set at the top. At the ACC a culture of derision of "smart" meter opponents is obvious and starts at the top as evidenced by chairman Stump shamelessly singling out one of the 12/12/2014 meeting attendees and calling attention to her RF shielding hat not once but twice to his twitter subscribers (see: http://images.edocket.azcc.gov/docketpdf/0000158998.pdf).

A previous sitting commissioner, Paul Newman, derisively referred to "smart" meter opponents as "the black helicopter crowd." (See: http://images.edocket.azcc.gov/docketpdf/0000143713.pdf)

This ACC culture, this tone set at the top, has filtered clear down to the ACC security doorman who, like a child repeating what his parents said, referred to recent meeting attendees as "kooks" (see: http://images.edocket.azcc.gov/docketpdf/0000158785.pdf).

This marginalizing and minimizing, justified and fueled by derision, has the consequence of aiding the rationalization of an extortion fee charged to those "kooks."

I also suspect the "smart" meter issues have been omitted not only to marginalize and minimize, but also because the ACC simply cannot sufficiently answer or address them. Immaturely, negligently and carelessly, the ACC seems to be hoping that if it does not acknowledge these issues then the issues will go away and not exist.

Airbrushing the "Background" – The ACC misrepresents customers' concerns

This is how the ACC misrepresents customers' concerns in the "Background" section of the Decisions' so-called "Findings of Fact":

> "Several groups of APS customers have raised concerns to the Commission and APS regarding the health effects of radio frequency ("RF") transmissions and the security of AMI meter-transmitted data." (Decision, page 1, line 24)

"Health effects of radio frequency" is the one customer concern the ACC got right. In actual fact, customers are concerned about a great many more issues related to "smart" meters. Oh, and not all of the concerned customers are in "groups."

Airbrushing the "Background" – Privacy, not "data security"

The Decision's claim that APS customers are concerned about "the security of AMI meter-transmitted data" is not correct. In actual fact, APS customers are rightfully concerned that personal data unrelated to billing is being taken from them *at all*, not whether it is secure after it's been taken. Deceptively, the ACC has attempted to re-frame this privacy violation issue as a data security issue instead.

It seems that just about everyone – everyone except APS and the ACC – knows that "smart" meters are surveillance devices. APS has been undaunted in claiming their "smart" meters are somehow different than those analyzed by the Congressional Research Service (here: http://greatgameindia.com/wp-content/uploads/2014/05/Smart-Meter-Data-Privacy-and-Cybersecurity-GreatGameIndia.pdf), or those bragged about by the "smart" grid industry sponsored mouthpiece, SmartGridNews, in their article, ***Now utilities can tell customers how much energy each appliance uses (just from the smart meter data)*** (here: http://images.edocket.azcc.gov/docketpdf/0000153433.pdf).

Even NARUC has just chimed in with this startling admission from Miles Keogh, director of grants and research at the National Association of Regulatory Utility Commissioners:

> "I think the data is going to be worth a lot more than the commodity that's being consumed to generate the data."
> (Politico, *Smart grid powers up privacy worries,* http://www.politico.com/story/2015/01/energy-electricity-data-use-113901.html#ixzz3Na2wSGtJ)

The ACC has had to re-frame the privacy violation issue because then it can claim that the issue is solved by its "rules" for what it misleadingly calls "Private Customer Information." In actual fact the "Information" ceased being private as soon as it was gathered from the customer.

But rules or no rules, payment to avoid privacy violation, or the possibility of same, is extortion. It is not "opt out."

Airbrushing the "Background" – Grid security

The word, "security," raises another "smart" grid failing that customers brought before the ACC that the ACC ignored, did not address, and subsequently left out of the "Finding of Facts" "Background." That issue is the security of the electricity grid itself.

Anything tied to a wireless network is susceptible to hacking. As the Microsoft Corporation succinctly puts it: "There is no way to guarantee complete security on a wireless network." (http://windows.microsoft.com/en-US/windows-vista/How-do-I-know-if-a-wireless-network-is-secure)

That has been pointed out repeatedly to the ACC. Examples of actual hacking were brought to the ACC's attention as was former CIA Director James Woolsey calling the "smart" grid "a really, really stupid grid" for opening up the nation's electricity grid to hackers. Recklessly, the ACC has ignored our and Woolsey's warnings. Those warnings, too, have been left out of the Decision's "Background."

Despite APS's and other utilities' assurances, "smart" meters have already been hacked. Here's a recent article that details the problem: Cyber Hackers Can Now "Harm Human Life" Through Smart Meters, http://smartgridawareness.org/2014/12/30/hackers-can-now-harm-human-life/ .

From the article: "The 'smart grid' is the most substantial danger. Cyber attacks that target a 'smart grid' will result in loss of power to large numbers of places simultaneously, causing infrastructure damages."

Airbrushing the "Background" – "Smart" meter fires

"Smart" meter related fires are of great concern to customers, especially given the number of "smart" meter related fires that have occurred across the U.S. and Canada, resulting in at least 2 deaths. Hundreds of thousands of "smart" meters have been recalled.

At my instigation, based on inside information that I received and shared with the ACC, APS admitted to the ACC that there have been "some" "smart" meter related fires in their service territory. It should be noted here that "some" is APS's vague term, and "'smart' meter related" is my characterization of the fires (see: http://images.edocket.azcc.gov/docketpdf/0000159029.pdf).

Additionally, APS admitted that they and "smart" meter manufacturer Elster are being sued by an insurance company for a house fire. That was the sum total of information that the ACC bothered to get from APS. We don't know the details of the lawsuit, what the damage was or if anyone or anything died or was injured, because carelessly, negligently, the ACC did not bother to ask. Nor do we know how many "*some*" "smart" meter related fires there are because carelessly, negligently, the ACC did not bother to ask.

The clear and present danger of losing one's house and all that's in it, not to mention losing one's

life, should be enough to shut down the entire "smart" meter program. Certainly to charge people a fee to avoid this possible harm – or even to avoid the constant anxiety caused by its specter – is extortion. It is not "opt out". So, no wonder this customer concern is completely omitted from the Decision's "Background". (For my instigation of the ACC's "investigation" of the fire issue, and for the ACC's pitifully inadequate response, see http://images.edocket.azcc.gov/docketpdf/0000155746.pdf and http://images.edocket.azcc.gov/docketpdf/0000156835.pdf)

Airbrushing the "Background" – "Smart" meters damage and interfere with household appliances and electronics

"Smart" meter damage to household appliances and electronics has been well documented in ACC "smart" meter dockets E-00000C-11-0328 and E-01345A-13-0069, both by news reports and anecdotes from Arizonans who have had the displeasure and expense of "smart" meters messing with and ruining their electrically powered things.

With my own eyes, and using a microwave analyzer to pick up the "smart" meter signals that correlated perfectly with the lights, I have seen "smart" meters turn motion sensing lights on again and again with each microwave transmission. Not the end of the world, and certainly not as aggravating as having one's house burn to the ground, but the point is that "smart" meters *do* interfere with stuff despite the ACC trying to ignore the issue, an issue that's been brought to the ACC repeatedly for years.

When computers or major appliances are ruined, or burglar alarms triggered, it is more than annoying; it is costly. Here's an excerpt from a typical and recent ACC docket submission on this subject:

> "We have spent endless hours discussing this with APS, Bonds alarm, electricians, all at our expense. In addition to the monetary expense, we have suffered hearing trauma from lengthy blaring of our home alarm (at times in excess of an hour.) Finally, a few months ago, APS agreed to reinstall the old meter. Since then, the blaring alarm problem has not reoccurred and we have been able to live in peace."
> (http://images.edocket.azcc.gov/docketpdf/0000158434.pdf)

Paying a fee to avoid this sort of harm in order to "live in peace" is extortion. It is not "opt out." So again, no wonder this customer concern is completely omitted from the Decision's "Background".

Airbrushing the "Background" – "Smart" meter inaccuracy

"Smart" meter inaccuracy is another issue that has been ignored by the ACC. It is also omitted from the Decision's "Background." Over-billing is a common fault of "smart" meters, not just nationwide but worldwide. The scenario is always the same. The utilities deny and stonewall the issue, but as soon as someone gets rid of the "smart" meter, their bill returns to normal.

The only time this issue was addressed by the ACC was at the commission's September 2011 "smart" meter meeting. When confronted at the meeting with the account of numerous people in Bakersfield, California having 300% electric bill increases, commissioner Gary Pierce brilliantly explained it was the result of a heat wave. Really. I guess it was 300% hotter that year.

When I am out measuring the microwave transmissions of "smart" meters I meet people whose bills have increased. I tell them the only way to get a normal bill is to call the company and tell them to remove the "smart" meter. If those people now have to pay to avoid over-billing, it is extortion. It is not "opt out."

Airbrushing the "Background" – The huge costs of the "smart" grid boondoggle

Another customer concern is the cost of the "smart" grid itself. This cost has never been detailed or examined with the same scrutiny as the imagined and hyped cost of the people who refuse the "smart" grid. Despite my asking for numbers, none have been forthcoming.

Indeed, on May 1, 2013 commissioner Bob Burns had an op-ed piece about "smart" meters in the Sedona Red Rock News in which he stated: "It occurred to me that perhaps an important fact is getting lost in the discussion – namely, that the digital meters represent a significant cost savings to the utility, a savings that, in turn, gets passed onto its customers."

In a letter to commissioner Bob Burns dated May 7, 2013, (and docketed here: http://images.edocket.azcc.gov/docketpdf/0000144753.pdf) I asked Mr. Burns:

> "Significant cost savings"? Do tell us exactly how much ratepayers will save per month? Substantiate your claim. Show us some numbers based on real life, not APS propaganda. If the cost savings are "significant" as you claim, then it should be easy for you to tell us specifically.
>
> Since some locations in Arizona and elsewhere have had "smart" meters installed for years then it should be easy for you to point to examples of "significant cost savings" that have been passed on to customers already, and when and where that has occurred.

I am still waiting for commissioner Burns' reply.

I'll never get one because the much vaunted "significant cost savings" of the "smart" grid do not exist anywhere in the world. Indeed, many people have gotten rate increases instead.

The ACC has never given a detailed cost accounting of the "smart" grid despite being asked numerous times, and despite their very own Decision # 69736 made in 2007 that called for a cost/benefit analysis. From that Decision:

> "However, both the benefits and the costs of Advanced Metering and Communications should be considered before requiring full-scale implementation." (p. 4, line 5, here: http://images.edocket.azcc.gov/docketpdf/0000075595.pdf)

There is nowhere in the world where rates have decreased because of the "smart" grid. However, there are plenty of places where promised "smart" grid savings have turned into rate increases. To name a few: Maine, Florida, California, Illinois, Quebec and Ontario.

Something those places have in common are regulatory agencies that, like ACC, took the utilities' rosy financial forecasts at face value and without 'fully considering these matters' as the ACC

falsely claims to have done in this Decision.

For example, just last month the Auditor General for Ontario, Canada found that the province's one billion dollar "smart" grid has cost twice that, and that no cost/benefit analysis had been done by the Ontario Energy Board, Ontario's ACC equivalent. Ratepayers are making up the difference via higher electric bills, and the issue has become quite a political scandal. (http://www.thestar.com/news/canada/2014/12/09/few_benefits_from_2_billion_smart_meter_program_auditor_says.html)

The problem of falsely projected savings turning into rate increases is ongoing. Here's a few places where rate increases to pay for the "smart" grid boondoggle are pending right now. Ameren Missouri has a rate hike pending, likewise Ameren and Com Ed in Illinois. PSO in Oklahoma is currently seeking a rate increase of over 20%.

Why was this customer concern airbrushed out of the "Background" and "Findings of Fact"? A safe bet would be because it does not fit the APS/ACC false narrative.

Airbrushing the "Background" – Trespass & Theft

The actual metering of electricity is a fraction of the overall functions of a so-called wireless "smart" meter. Not just measuring devices, "smart" meters are also radio transceivers and relay antennas. Calling these devices "meters" distracts from the fact that they are utility company communications equipment designed to not just gather and transmit *your* data but also to move the data of others. Utilities have quite simply stolen ratepayers' property in order to establish their own private communications network to move other people's data and to implement their business plan.

Miniaturization and automation of radio components has enabled those components to be hidden unnoticed in a case that looks like an electric meter and not like a radio transceiver. The point I am making is that if radio transceivers and antennas were as large as they were in say, the 1920s, and required a human operator as in the 1920s, then it would be obvious to everyone what the utilities were doing. "Out of sight, out of mind", plus giving these devices a delusory name – "smart" meter or AMI meter – that has nothing to do with a radio transceiver, helps alter perception and perpetuate the deception. *Those who control the language control the debate.*

A huge unmentioned, unaddressed issue and major violation is the fact that placement of a radio transceiver and relay antenna (*of any size*) on anyone's private property without permission or compensation is trespass and theft. When done by a government owned utility such as SRP or any one of the municipally owned utilities in Arizona it is also an illegal takings under the 5th Amendment of the U.S. Constitution.

Again, the ACC has been apprised of this numerous times both in writing and at meetings but they have simply ignored the issue as if it does not exist. So it is no surprise that the ACC has left this serious issue out of the "Background" of its "Findings of Fact."

Payment to avoid this theft, this trespass, this takings, is extortion. It is not "opt out."

It is worth noting that all the other violations and abuses caused by "smart" meters start with this

initial property violation. In other words, once one has lost their property rights, they have lost all others as well. This is why someone's home is supposed to be their castle.

Airbrushing the "Background" – What do we want? No "smart" meters!

The next sentence in Decision 74871 is another half truth and misrepresentation, another attempt by the ACC to airbrush the "Background."

> "These customers have requested the ability to retain non-transmitting analog meters, and this Opt-Out Schedule is intended for those customers" (Decision, p. 1, line 26)

Actually, many customers have not just requested an analog meter, they have rightfully called for a complete recall of *all* "smart" meters. Even if a customer refuses a "smart" meter, the mesh network design of the "smart" grid of meters in that neighborhood or area still may trespass on the customer's property. This is called electronic trespass.

Because the biological effects of "smart" meters can occur at 100 yards away (http://images.edocket.azcc.gov/docketpdf/0000145782.pdf), many people, myself included (even though I do not have a "smart" meter), have been injured by the "smart" meter transmissions of others. Many of these injured customers, along with customers who do not want to be injured, have demanded a halt to the continuous electronic trespass of "smart" meter transmissions on their persons and property, an end to the entire toxic boondoggle.

There is of course no trace of this customer concern anywhere in the "Background."

Airbrushing the "Background" – What do we want? TOU!

Additionally, not all customers refusing "smart" meters have requested analog meters. Some customers prefer to keep their non-transmitting digital meter in order to be on a Time Of Use rate. Indeed, before this Decision 74871, some APS customers were able to do just that.

I will have more to say about this particular issue later in this appeal. Suffice it to say right now that in their sloppy rush to have a decision on December 12th, 2014, the ACC commissioners neglected these customers as they did solar, commercial, E-3 and E-4 rate plan customers as well, and there is no trace of this customer concern anywhere in the "Background" either.

Airbrushing the "Background" – The "opt out" Fallacy ~ No Basis in Law

Also, the term "Opt-Out" used in the above sentence, throughout the Decision, and in the Decision's title is a misleading, inaccurate propaganda term. As I have pointed out to the ACC numerous times in the past, no one can "opt out" from something they never "opted in" to in the first place. One wonders where the ACC people went to school.

The ACC needs to learn and understand English. Customers are *refusing* "smart" meters. They are *not* "opting out." Customers cannot "opt out" because they never "opted in".

This is no small matter of semantics.

In the Energy Policy Act of 2005, Section 1252, "smart metering," the word used repeatedly with regard to "smart" meters is "request". Electric utilities were to provide "smart" meters to those customers *who request them*. It was to be an "*opt in*" program – and even then only if state regulatory agencies found such a program "appropriate". (Energy Policy Act is here: http://www.gpo.gov/fdsys/pkg/PLAW-109publ58/html/PLAW-109publ58.htm)

Expecting people who do not "opt in" to pay for not "opting in" is turning the law on its head.

The ACC's July 2007 Decision 69736 is entitled "IN THE MATTER OF SMART METERING REQUIREMENTS OF SECTION 1252 OF THE ENERGY POLICY ACT OF 2005." That Decision actually quotes the relevant Energy Policy Act wording I just mentioned above. Note the word, "requesting."

> "(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively." (p. 3 & p. 8)

The above quote actually appears *twice* in the nine page ACC Decision. (The Decision is here: http://images.edocket.azcc.gov/docketpdf/0000075595.pdf)

Additionally, under "Staff's Recommendations" (which the commissioners adopted in that 2007 Decision), we find the following under the heading "TIME-BASED METERING AND COMMUNICATIONS." Note the phrase "upon customer request".

> "Within 18 months of Commission adoption of this standard, each electric distribution utility shall offer to appropriate customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level." (p. 7)

How a voluntary, "opt in" program morphed into a mandatory one whereby people who never opted in are scapegoated as "cost causers" and are required to pay money to refuse something they never "requested" is anybody's guess. It's kind of like getting a bill from the airlines for not flying.

Certainly the morphing did not come from further ACC "smart" meter Decisions because there weren't any. So this current mandatory "opt in" program, in which everyone is automatically "opted in" and has to pay to get out, **has no basis in law**. **It is illegal.**

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.

That brings us to page 2 of Decision 74871 and the "Estimated Costs" section of the "Findings of Fact".

Estimated Costs – No, just APS winging some numbers at the wall and hoping some stick

As the lawyer intervening for the City of Sedona stated at the December 12th, 2014 ACC open meeting, "APS's request is not evidence. It's a request for a fee."

These ridiculous, unproven "estimated costs", shown in the form of an "itemized breakdown" in this section of the Decision are a perfect example of why, prior to the December 12th, 2014 ACC meeting, I moved that the meeting be postponed and an evidentiary hearing be held instead.

Of course that was not done because then parties would actually have to present real evidence and tell the truth under oath. Worse, plebeian interveners such as myself would then have an equal footing and be able to subpoena people and ask real and embarrassing questions. Heck, the truth might even come out.

Including APS's numbers as a "Finding of Fact" gives those unverified numbers an undeserved legitimacy. "Finding of Wish" would be a more appropriate category for them.

It is also totally backwards, unbalanced and deceptive to have an itemized list of analog metering costs (which is suspect since coming from APS and not an independent source) without having an itemized list of what the "smart" grid costs are.

The ACC is fond of talking about the "socialized costs" of people who refuse "smart" meters. Since 2011 when my involvement in the "smart" issue began, I have noticed an unfounded and unverified assumption that customers who refuse "smart" meters are "cost causers". APS has made this assertion throughout and the ACC has as well. Both take it for granted that people who refuse "smart" meters are cost causers, but that assertion has never been proved. It is as though if APS and the ACC repeat it enough then it must be true.

Estimated Costs – What are the costs of the "smart" grid?

In the ACC's 2007 Decision 69736 the ACC actually lists many cost categories of the "smart" grid, but the ACC did not then, nor to this point in time, ever attach any real, verified numbers to those categories.

From the 2007 Decision # 69736, and note the open-ended phrase, "other associated costs":

> "Costs of AMI can include the costs for the meters, meter installation, a Meter Data Management System, data management labor, communications, back office software and servers, the integration of the AMI system to other systems, repairs to customer equipment, and other associated costs." (p. 5, line 25)
> (http://images.edocket.azcc.gov/docketpdf/0000075595.pdf)

Here's what some of those "other associated costs" might be: Field equipment such as routers and towers (basically APS has had to build their own cellular network), plus upgrades to the power lines (I witnessed multiple transformers and other equipment being installed all over Sedona when the "smart" meters came. Friends in the Village of Oak Creek noticed the same thing there.), plus whatever APS is paying Verizon to move the data where APS's communications network services are inadequate. Then add in the ongoing costs – operating and maintaining the network, storing the data, cyber-security

costs, and the fact that "smart" meters and the rest of the "smart" grid equipment require electricity to run whereas analog meters do not.

Then there's the shorter lifespan that "smart" meters have. According to electric meter testing equipment and services company, Tesco:

> "Electro-Mechanical Meters typically lasted 30 years and more. Electronic AMI meters are typically envisioned to have a life span of fifteen years and given the pace of technology advances in metering are not expected to last much longer than this. This means entire systems are envisioned to be exchanged every fifteen years or so." (*Meter Operations in a Post AMI World,* Slide 5, http://www.slideshare.net/bravenna/meter-operations-in-a-post-ami-world-36336258?related=1)

There's a big financial difference between meters that last "30 years and more" and meters – plus "entire systems" – that "are envisioned to be exchanged every fifteen years or so," especially when the meters that last half as long cost about 10 times more!

Even a 15 year lifespan is probably wishful thinking. APS has admitted to replacing 32,000 faulty "smart" meters from January 1st through August 31st in 2014 alone (see p. 4 here: http://images.edocket.azcc.gov/docketpdf/0000156835.pdf).

The ACC has lost sight of the fact that APS has an incentive to spend money since they get a guaranteed return on their rate base. All of the above should have been considered before the first "smart" meter was installed. But the ACC never did, despite their absurd, false claim of having "fully considered these matters."

The only real numbers given in the 2007 Decision were for just a few aspects of the program. And even then it is worth remembering that neither APS nor anyone else was under oath. Decision 69736 was *not* the result of an evidentiary hearing.

> "As of February 2007, APS had purchased 29,872 AMI meters at an average cost of about $97 per meter." (p. 5, line 28)
>
> "During a six-month period, APS spent about $700,000 for integration of the AMI system and the Customer Information System." (p. 6, line 2)

Looks like no one at the ACC really cared what the whole kit and caboodle cost. So much for 'fully considering these matters' and "balancing the public interest."

Interestingly, a "finding of fact" that arose from this dereliction of duty called a Decision was:

> "The communication cost per AMI meter was about $0.15 per month, compared to a meter read cost of about $0.90 per conventional meter."

God only knows how that was derived. No analysis is given in the Decision.

But if the numbers given for meter reading are true – which is doubtful – what those numbers say is that reading an analog meter is six times the cost of reading a "smart" meter. 15 2007 cents is worth 17 cents today. Times 6 is $1.02. It is *not* the $5 the ACC thinks is a fair price for reading an analog meter today.

So the poor ACC fails basic arithmetic too. And bear in mind that the $5 called for in this Decision is on top of the existing meter reading fee that's already on everyone's monthly bill.

The ACC has forgotten A.R.S. 40-361.A.

> "Charges demanded or received by a public service corporation for any commodity or service shall be just and reasonable. Every unjust or unreasonable charge demanded or received is prohibited and unlawful."

How can charges be "just and reasonable" when the ACC hasn't done its homework, or even gone to school?

Estimated Costs – Who is "socializing" whom?

As I mentioned previously, the ACC is fond of talking about the "socialized costs" of people who refuse "smart" meters. Let's put the analog metering system up against the "smart" grid and see who is "socializing" whom. Oh wait, cost/benefit analyses *have* already been done (but not in Arizona despite the commission's 2007 Decision # 69736 that said "However, both the benefits and the costs of Advanced Metering and Communications should be considered before requiring full-scale implementation.")

The results of those cost/benefit analyses show that it is analog users who are paying for a "smart" grid they don't want and never signed up for.

"Big Four" accounting firm Ernst & Young did a cost/benefit analysis for the country of Germany. I brought it to the ACC's attention (docketed here: http://images.edocket.azcc.gov/docketpdf/0000147126.pdf). I doubt my letter was read by anyone at the ACC.

As a result of the analysis, Germany's Economy Ministry proclaimed the European Union's proposal for 80% of homes to be "smart" metered by 2020 as "inadvisable" since installation costs would be greater than energy saved. [Bloomberg News, "Germany Rejects EU Smart-Meter Recommendations on Cost Concerns", http://www.businessweek.com/news/2013-08-01/germany-rejects-eu-smart-meter-recommendations-on-cost-concerns]

In a brief filed with the Connecticut Department of Public Utility Control, the Connecticut attorney general, George Jepsen, found that "...the costs associated with the full deployment of AMI ["smart"] meters are huge and cannot be justified by energy savings achieved." (Brief is here: http://www.smartgridlegalnews.com/ConnAG_brief.pdf , press release is here: http://www.ct.gov/ag/lib/ag/press_releases/2011/020811clpmeters.pdf)

Jepsen's brief is based on an actual pilot study of "smart" meters that involved thousands of real

people with real "smart" meters.

Addressing who is subsidizing whom, Jepsen had this to say:

> "Many customers do not want or cannot use the new AMI meters. Under the Company's plan, however, these customers will nonetheless be forced to subsidize the cost of the meters for the few customers who will use them." (Brief, p. 8)

Here's another salient Jepsen quote that deals with subsidization, and more. Note the sentence that begins with the word, "Second":

> "Certain types of customers, due to no fault of their own, simply cannot shift their electricity usage to off peak times. These customers include many elderly, those with sick or young children at home, as well as those customers who work second or third shifts. OCC PFT, 17-18. Also, many businesses simply cannot change the times that they use electricity. Forcing these customers to purchase AMI meters is punitive. First, theses [sic] customers cannot take advantage of the time-based rates that the AMI meters are intended to facilitate. Second, these customers will not only be forced to pay for their own meters, but they will also be required to subsidize any savings achieved by those customers that can benefit from time-of-use rates. Third, even if they could shift the times of their electric usage, many of these customers cannot afford the associated controlling technologies that are required to make the AMI meters truly effective. While time-based rates should remain an option for electric customers, they should not be forced on customers to their economic detriment." (Brief, p. 14)

Jepsen's brief has been brought to the ACC's attention by others and I many times but to no discernible effect. In fact, the first time I sent it to the ACC, the ACC refused to docket it. (That story of censorship and ACC ineptitude is here: http://images.edocket.azcc.gov/docketpdf/0000142973.pdf)

Often, in addition to Jepsen's words, I have reminded the ACC of the words of these other state attorneys general:

- **Illinois A.G.:** "The utilities have shown no evidence of billions of dollars in benefits to consumers from these new meters, but they have shown they know how to profit."

- **Michigan A.G.:** "A net economic benefit to electric utility ratepayers from ... smart meter programs has yet to be established."

What a pity for the "public interest" that the ACC did not pay attention to comments Michigan Attorney General Bill Shuette made to the Michigan Public Service Commission (MPSC) (here: http://efile.mpsc.state.mi.us/efile/docs/17000/0408.pdf). The ACC would have learned who is subsidizing whom by this statement of Shuette's:

> "Presumably, under the utilities proposals, customers who opt-out of smart meters would be required to pay rates covering both the costs of the smart meter program, and expansively defined incremental costs "of retaining traditional meters." (pp. 5 & 6)

Lisa Madigan, the Illinois attorney general, does not mince words about the "smart" grid. I shared her words with the ACC in a letter docketed here: http://images.edocket.azcc.gov/docketpdf/0000143635.pdf.

Writing in the Chicago Tribune, she reports on a "smart" grid pilot project in Illinois:

> Their pitch is that smart meters will allow consumers to monitor their electricity usage, helping them to reduce consumption and save money. But the $63 million smart grid pilot program consumers are currently paying for has turned in disappointing results that reinforce what [utility CEO] Rowe already knows. On hot summer days, people continue to run their air conditioners no matter how much information they have from their smart meter.
>
> Consumers don't need to be forced to pay billions for so-called smart technology to know how to reduce their utility bills. We know to turn down the heat or air conditioning and shut off the lights. The utilities have shown no evidence of billions of dollars in benefits to consumers from these new meters, but they have shown they know how to profit.
>
> I think the only real question is: How dumb do they think we are? (http://articles.chicagotribune.com/2011-06-21/opinion/ct-oped-0621-madigan-20110621_1_smart-grid-ameren-comed)

This brings us to the "Staff Analysis" section of the "Findings of Fact."

Staff's Biased & Faulty Analysis

Here the Decision states,

> "Staff recognizes that there are costs associated with maintaining an older meter technology for a select group of customers, and that those customers and the Company will not be able to utilize the advanced capabilities AMI meters provide." (Decision p. 3, line 15)

That statement only reflects the ACC staff's inherent bias and faulty thinking. It is not "fact."

Actually, the ACC staff should 'recognize that there are costs associated with installing and maintaining a hugely more expensive newer meter and communication technology for a select group of customers.' In other words, once again persons not wanting a "smart" meter are being framed as "cost causers" when in fact it is the "smart" grid itself that is the huge expense.

Remember that (some but not all) "smart" grid costs were acknowledged in the ACC's 2007 Decision # 69736, but those costs were never thoroughly investigated or analyzed. 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.

Staff's Biased & Faulty Analysis – And just who is that "select group" again?

As for being a "select group," that's just another attempt to marginalize people who do not want a "smart" meter. It is more than likely that if "smart" meters were the voluntary, "opt in' program they are supposed to be by law, then people who requested a "smart" meter would be the "select group." And that of course raises the point that there has been a total lack of informed consent by customers throughout the entire period of the installation of "smart" meters.

Indeed, Massachusetts' largest utility, Northeast (about which I'll say much more later), had this to say about the failure of voluntary "opt in" in its comments to the Massachusetts Department of Public Utilities last January.

> "Smart metering pilot programs across the country have produced similar results in terms of showing a lack of customer interest. Even the most successful residential time-of-use pricing programs have no more than 50 percent participation by the residential customer base. For example, NSTAR's Smart Energy Pilot has seen significant participant degradation relative to the initial number of customers installed. As reported to the GMWG, NSTAR Electric made 53,000 customer contacts in an attempt to enroll customers in its smart grid program; only 3,600 customers enrolled; only 2,700 customers were installed and approximately 40 percent of those 2,700 initial participants were removed or dropped out of the pilot by May 2013. PSE&G's "myPower" pricing pilot saw similar results in which 27 percent of participants were either removed or dropped out (excluding the control group)." (p. 11 here: http://images.edocket.azcc.gov/docketpdf/0000151238.pdf)

Staff's Biased & Faulty Analysis – Staff tells a joke.

As for the ACC staff 'recognizing' that customers "will not be able to utilize the advanced capabilities AMI meters provide," is that a joke? Just what are those "advanced capabilities"? Oh that's right, with a "smart" meter, when my microwave sickness has advanced to cognitive impairment I can go online to see if my lights are on, if I remember to.

In short, that part of the sentence is just more utility propaganda. It is not "fact."

Additionally, if "the Company" cannot "utilize the advanced capabilities AMI meters provide" because the customer doesn't have a "smart" meter then that's just too bad. I'll cry for them. APS has a monopoly not for their benefit but supposedly for ours. That is a legal point the ACC has long forgotten.

This brings us to the "Staff Proposal" section of the so-called "Findings of Fact."

Staff Proposal – Faulty analysis = Faulty proposal

As shown above, due to the ACC staff's inherent bias, illogic and failure to do a thorough cost accounting – or any accounting at all – their analysis was faulty. Faulty analysis results in faulty proposals.

All of the staff proposals involve payment to avoid harm, in other words extortion, which, last I checked, was against the law.

It is worth mentioning here that if manual reading was such an onerous expense for APS, then long ago APS would have stopped sending meter readers out in full-sized pickup trucks. So for APS to worry about the cost of reading meters is disingenuous. Again, the ACC has lost sight of the fact that APS has an incentive to spend money since they get a guaranteed return on their rate base.

This brings us to the "Commission Discussion" section of the Decision's "Finding of Fact."

Commission Discussion = Commission Fantasy

As usual the commissioners got everything completely wrong throughout their "Commissioner Discussion."

Additionally, what the commissioners *did not* discuss is most important. Not only were many serious customer concerns left completely unaddressed as I mentioned previously, but various types of customers were not considered at all in the Decision.

Worse, and incredibly, the vote on the Decision was taken with the understanding that one unresolved issue in particular (what to do with solar customers) would be dealt with *after* the vote via a nontransparent process between the ACC staff and APS. I'll have more to say about those points later, but first I want to deal with what's actually written in the "Commission Discussion" section of the Decision.

Commission Fantasy – The commissioners' disdain for customers

The Decision states:

> "We are concerned that both Staff's alternative proposals 2 and 3 could result in opt out customers potentially providing inaccurate and untimely information concerning opt out customer usage." (Decision, p. 5, line 22)

Staff proposal number 2 would have allowed customers to read their own meters. So despite self-reading being actually sanctioned in the Arizona Administrative Code (A.A.C. R14-2-209.A.1), what the commissioners are saying is that people cannot be trusted to do that.

Thanks commissioners, and the feeling is mutual. You don't trust us to read our meters, and we *know* we can't trust you to regulate APS.

The commissioners' insulting statement is not a "finding of fact," it is simply an opinion based on nothing since no actual evidence of customer cheating was ever provided by the commissioners to prove their low opinion of customers.

In actual fact, self-reading is done in other locations. I know for a fact that self-reading is done by at least one California electric coop, and in San Francisco there are homes with meters inside and so the customers leave a card with their information in the window for the PG&E meter reader.

Instead of offering unsubstantiated, disrespectful opinions and trying to pass them off as fact, the commissioners could have investigated the success of self-reading. If the commissioners were sincerely interested in the "public interest" they talk so much about and pretend to promote, they would have done some research to see what the "public interest" really is. Again, this is just another example of why this Decision should have been the result of an evidentiary hearing in which real evidence is produced instead of opinions.

Additionally, it seems it never occurred to the commissioners that the utilities could be protected from fraud by way of a security deposit.

Commission Fantasy – Proof of commissioners' confusion

God only knows what the commissioners are talking about regarding the ACC staff's proposal number 3. Proposal number 3 *does not* involve customer self-reading so "customers potentially providing inaccurate and untimely information" *does not* apply to that proposal. I interpret lumping number 3 with number 2 in this instance as just more proof of the commissioners' confusion and ineptitude.

Commission Fantasy – 'Balancing the public interest' with APS greed

The commissioners state:

> "In balancing the public interest, we also find that an opt out one-time set up fee is appropriate only for those customers with an AMI meter already in place, and that a reasonable one-time set up for these customers is $50." (Decision p. 6, line 1)

"Balancing the public interest"? With what, APS's greed?

The commissioners' statement is total nonsense. As I mentioned before, informed consent by customers has been missing since the start of the "smart' meter installation binge that APS recklessly engaged in. There was no mandate APS was under to install "smart" meters everywhere to everyone. By both federal and state law it was to be an opt-in (voluntary) program. Perfectly good analog meters were removed and destroyed. Many APS customers are still unaware of what a "smart" meter is or that they have one. Once those customers *do* understand what a "smart" meter is, and that they no longer want all the risks that come with the "smart" meter, why should they have to pay $50 *or anything* to have it removed?

APS is the party who broke their analog and "opted" them "in." APS is therefore the party who should pay for their meter replacement and for "opting" them "out." "You broke it; you bought it, APS"

Along with some courses in logic, the commissioners need to get a moral compass adjustment if they think "balancing the public interest" means charging people money for what is in reality a problem APS created for themselves.

Commission Fantasy – Commissioners cut APS slack and violate state statutes

Additionally, many APS customers who *did* attempt to refuse a "smart" meter were intimidated and abused by APS phone jockeys into not getting one. That illegal APS business practice was so rampant that people's complaints about it can be found in the ACC docket. Some people I helped had to make as many as three calls. I am sure there are others who simply gave up. APS was clearly in violation of A.R.S. 40-202.C.1 that prohibits abusive business practices but nothing was done by the ACC despite numerous complaints.

Here are just two of the sorts of reports I received. I also remember at least one person getting the runaround at the Cottonwood office, so the abuse was not just happening on the phone.

> Customer called APS and requested an "opt out". She was informed by APS Customer Care that the time limit for applying for an "opt out" had expired and that she would have to pay a $75 initial fee and $30 per month to "opt out". She was told this fee structure is APS policy.
>
> A man in his 80s has been trying for several months to "opt out" of a "smart" meter and keep his existing analog meter. He was told by APS that unless he accepted a smart meter installation on his home by June 3, his electricity would be turned off. (http://images.edocket.azcc.gov/docketpdf/0000145814.pdf)

Commissioner Brenda Burns shared her idea of doing something about this and giving APS "a pretty hard time" at the December 12th, 2014 ACC open meeting.

From 03:50:32 on the archived meeting video:

> On this particular issue, I want you to know, I've given them a pretty hard time.
>
> When I first got the note on my door sayin' we were going to get a smart meter, I said to my husband, do you mind if I can call and tell them I don't want one? I want to see how they treat customers on this. OK?
>
> So I called, and told them I didn't want it. And I mean, I'm not going to go through the whole thing, but I, I, I ended the call with I was supposed to get a call back.
>
> Anyway, I ended up getting the smart meter, when I wasn't supposed to get one. So I, I hear that happens. I met with the CEO and others from APS and I told them about my experience. And I said, you know we have to make sure we're, we're handling customers better than that. I also told them to be sure and not to flag my account as a, a commissioners' so, so that we could see how it went.
>
> And several months later we had another little incident. There was, there was a glitch. I could kind of understand why it happened, but there was another incident.
>
> So I have really, you know, given them a little bit of a hard time, first of all on customer, um you know, customer relations and they have been very responsive and they've corrected the way they did a number of things, because of the experience, um, that I went through and that I shared with them, and I, and I appreciated that and I know that

things worked better.

This is quite an amazing admission from commissioner Brenda Burns for several reasons.

One wonders when exactly this took place. In other words, how many other customers had APS abused, intimidated or tried to force a "smart" meter on before, during and after commissioner Burns played out her little detective experiment?

How many customer complaints does it take for one of the commissioners to play detective?

Why is Burns doing this when there is actually a state law against the way APS treated customers who were trying to refuse "smart" meters? Did she do this unilaterally or were other commissioners in on this?

Why is Burns doing this when commissioners are actually enjoined by state statute to "commence a proceeding" in instances of abuse? Note that neither of the statutes reproduced below say anything about how in lieu of a proceeding, an acceptable alternative is to just meet with the CEO and tell him "we have to make sure we're, we're handling customers better than that."

And what's up with "*we*?" Does commissioner Burns work for APS? It seems she is in their employ as a mystery shopper. What else does she do at APS?

Actually, "a pretty hard time" would have been prosecuting and fining APS – and maybe some real "hard time" – for repeatedly lying to, deceiving and abusing customers who called in to refuse "smart" meters. Far from "a pretty hard time," to me Brenda's chat with the APS CEO and her role as mystery shopper demonstrates the unseemly cozy relationship commissioners have with APS.

Tough luck for the 80 year old man who was jerked around by APS for months. Serves him right for not being important enough to have the APS CEO's phone number.

> **40-203. Power of commission to determine and prescribe rates, rules and practices of public service corporations**
> When the commission finds that the rates, fares, tolls, rentals, charges or classifications, or any of them, demanded or collected by any public service corporation for any service, product or commodity, or in connection therewith, or that the rules, regulations, practices or contracts, are unjust, discriminatory or preferential, illegal or insufficient, the commission shall determine and prescribe them by order, as provided in this title.

> **40-422. Action by commission to enjoin violations or threatened violations; venue; time for answer; joinder of parties**
> A. When the commission is of the opinion that a public service corporation is failing or about to fail to do anything required of it by law or an order or requirement of the commission, or is doing or about to do or permitting or about to permit anything to be done contrary to law or any order or requirement of the commission, it shall commence

> a proceeding in the name of the state to have such violations or threatened violations prevented, either by mandamus or injunction. The commission shall bring the action in the superior court in the county in which the claim arose, or in which the corporation complained of has its principal place of business or an agent for any purpose, or in which the commission has its office.

Commission Fantasy – The Fantasy turns nightmarish

Most of the so-called "Findings of Fact" are nonfactual, inaccurate, faulty, wrong, and etc., but this particular one of the commissioners is downright scary:

> "In addition, we will require APS to provide notice to all its customers of this decision in a form acceptable to Staff." (Decision p. 6, line 21)

For years the ACC staff have totally botched the "smart" meter issue. They simply cannot be trusted to get any sort of notification correct. The thought of the ACC staff working with APS on the notice wording is just plain scary. Such a notification is one of the few chances to properly inform customers of all the potential risks inherent in "smart" meters.

The ACC commissioners have totally botched the "smart" meter issue since at least the 2007 Decision # 69736. They cannot be trusted to get it right either. Any notice wording should be the result of a truly independent group that includes people who actually know something about "smart" meters.

Commission Fantasy – The commissioners try to hide in FCC Fantasy Land

In what can only be described as a pathetic attempt to avoid liability and dodge their statutory responsibility to find utility equipment safe under A.R.S. 40-361.B and A.R.S. 40-321.A, the commissioners conclude their comments by essentially saying they can't do anything regarding the health hazards of continuous, pulsed "smart" meter microwave transmissions because their hands are tied by the FCC guidelines. **The commissioners' assertion has no basis in law.** The commissioners' assertion only reveals their lack of knowledge of the subject.

Twice in their comments the commissioners interchange the word "guidelines" with "standards." One can only guess if that interchange is due to the commissioners' incompetence or if it is an attempt to deceive. In any case the FCC guidelines are only guidelines; they are *not* "standards." There is a difference between the two that the FCC itself acknowledges.

The FCC has established "guidelines" for protection against the thermal effects of radio frequency exposure. Those guidelines are *not* safety "standards." This is acknowledged in an FCC document entitled, *Consumer Guide, Wireless Devices and Health Concerns*, the very first line of which states:

> "...there is no federally developed national standard for safe levels of exposure to radiofrequency (RF) energy…."
> (http://transition.fcc.gov/cgb/consumerfacts/mobilephone.pdf)

Additionally, and most importantly, while there is correspondence from the FCC that states

"smart" meters meet federal guidelines if they have the FCC certification, there is nothing that prevents individual states from being more restrictive with regard to "smart" meters. The FCC preemption found in the federal communications laws that the commissioners imagine applies to "smart" meters, in actual fact only applies to FCC licensed cellular towers and antenna arrays.

The FCC has *not* claimed a broad-based preemption policy to cover all RF emission sources. From the FCC:

> "To date the Commission has declined to preempt on health and safety matters."
>
> "The Telecommunications Act does not preempt state or local regulations relating to RF emissions of broadcast facilities or other facilities that do not fall within the definition of "personal wireless services." It would appear from the comments that a few such regulations have been imposed, generally as a result of health and safety concerns. At this point, it does not appear that the number of instances of state and local regulation of RF emissions in non-personal wireless services situations is large enough to justify considering whether or not they should be preempted. We have traditionally been reluctant to preempt state or local regulations enacted to promote bona fide health and safety objectives. We have no reason to believe that the instances cited in the comments were motivated by anything but bona fide concerns." [Underlining in original]
>
> "At this time ... we deny the petitions ... from several parties, requesting a broad-based preemption policy to cover all transmitting sources."
>
> Pages 61 & 62, In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93-62, REPORT AND ORDER, Adopted: August 1, 1996; Released: August 1, 1996 (Here: http://transition.fcc.gov/Bureaus/Engineering_Technology/Orders/1996/fcc96326.pdf)

Evidently, the commissioners are also ignorant of the fact that their specious FCC preemption argument has already been tried unsuccessfully by Central Maine Power (CMP). Here's what the Maine Public Utilities Commission had to say about CMP's preemption argument:

> Based on the submissions of CMP and the Intervenors, there is no direct federal preemption and novel field preemption issues require a thorough legal and factual analysis. CMP's arguments do not make this showing. It is certainly not obvious that the Commission's authority under 35-A M.R.S.A. § 101 is preempted from conducting this proceeding on whether CMP's smart meter service is safe.
> (page 34, here: https://mpuc-cms.maine.gov/CQM.Public.WebUI/Common/ViewDoc.aspx?DocRefId={F1020185-26AE-4733-A491-644096366CE4}&DocExt=pdf)

In short, the ACC commissioners' imagined FCC preemption is just their own wishful (and typically uniformed) thinking. The commissioners need to face the fact that they are stuck with the "smart" meter issue, the health concerns citizens have about these meters, and all the karma and liability that goes with it. "Smart" meters are the ACC's baby, not the FCC's.

One also wonders where the commissioners got the idea that APS "smart" meters are within FCC guidelines. Certainly this could not have been determined by the fraudulent ADHS study. The "smart" meter measurements taken in that study were completely inaccurate. (See my report here: http://images.edocket.azcc.gov/docketpdf/0000158210.pdf, my video exposé here: http://images.edocket.azcc.gov/docketpdf/0000158581.pdf and also the letter from ET&T Indoor Environmental Surveys, p. 7 here: http://images.edocket.azcc.gov/docketpdf/0000158659.pdf)

Imagining they have the issue wrapped up, the commissioners state:

> "The FCC's guidelines therefore present the ... relevant question, and the narrow issue that remains for our consideration is whether the smart meters installed in Arizona meet the FCC guidelines." (Decision pp. 6 & 7)

The curious, nonsensical ellipsis that renders the first part of the above statement unintelligible is in the original. Just more sloppy ACC "work" I guess. However, the second part of the sentence, after the comma, is clear, and clearly a lie.

"... the narrow issue that remains for our consideration is whether the smart meters installed in Arizona meet the FCC guidelines." No, the issue is not "narrow," and there are actually plenty of "smart" meter related issues that are unaddressed and *still remain* for the commissioners' consideration. I am enumerating them throughout this appeal.

Commission Fantasy – The Law & the lawless commissioners

Of course one issue that remains for commissioners, not to consider but to finally acknowledge, to finally realize, is that the wireless "smart" meters installed in Arizona by APS – and the other utilities regulated by the ACC – are unsafe.

The ACC commissioners, *not the FCC or any other agency*, have a statutory obligation to determine safety. I have been telling the commissioners that and quoting the law to them for years. Yet the commissioners have been dodging the law for years.

One more time:

> **A.R.S. 40-361.B** – Every public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable.
>
> **A.R.S. 40-321.A** – When the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.

The ACC is comprised of such brazen scofflaws that I and others have actually been told in the past by various people at the ACC that the ACC cannot define what a meter is, nor can the ACC tell the utilities what sort of meters to use.

Really. (See: http://images.edocket.azcc.gov/docketpdf/0000143321.pdf)

According to the above statutes, the ACC certainly *can* tell the utilities what sort of meters to use. By law the ACC is supposed to tell the utilities to use safe ones!

Commission Fantasy – The *real* "Background"

The *real* "Background" of this "matter" is that the commissioners were overwhelmed with customers' health complaints, scientific evidence, and declarations from four Arizona towns asking the ACC to prove "smart" meters safe before installing them, and so the commissioners tried to palm the safety issue off on the Arizona Department of Health Services (ADHS).

It is worth noting here that, in an act of spectacular negligence, the commissioners allowed the continued installation of "smart" meters during the 14 months that the ADHS study was being written.

Despite the ADHS "smart" meter study being a monumental fraud, the ADHS did not find "smart' meters to be safe. ADHS found "smart" meters "not likely to harm."

"Not likely to harm" does not fit the above state statutes that call for actual safety.

Since the ACC's ADHS ploy backfired, the commissioners have now attempted an obvious last minute "Hail Mary" FCC stratagem instead. Clearly a last minute ploy, had the ACC thought of it previously they never would have asked for a health study in the first place. In other words, why ask for a health study if the health issue is out one's hands? However, as I proved above using the FCC's own Report & Order as well as the Maine precedent, the ACC's new FCC stratagem is specious. The FCC preemption is the fantasy of a commission so desperate to dodge their statutory responsibility regarding safety that the commission has become delusional. **There is no FCC preemption for "smart" meters.**

As I told the commissioners after the ADHS study came out, the game is over, "smart" meters are *not safe*, and every day that "smart" meters remain in Arizona the commissioners and their APS pals are in violation of the law.

Commission Fantasy – A classic example of the commissions' lawlessness

A classic example of the commission's obdurate, in-your-face lawlessness is worth noting here. Commissioner Susan Smith is so willfully disrespectful of the above state statutes that in 2013 she was quoted in the Arizona Daily Star thus:

> **She said it's not for the commission to weigh all of the conflicting claims about the effects of the radio waves coming off the meters.**

The question for the commission, she said, is how much the utilities will be able to charge customers who have concerns and want to opt out.

(http://azstarnet.com/business/local/utility-smart-meters-raise-health-expense-concerns/article_ed579a26-59b3-5dfe-ad09-cf5168f44025.html)

Because I had already apprised commissioner Smith of the law at least twice previous to the Star article, I was shocked to read her incompliant, rogue comments. I wrote commissioner Smith telling her that if the article was accurate then she should resign. (The letter is docketed here: http://images.edocket.azcc.gov/docketpdf/0000145081.pdf).

Smith never did deny the views attributed to her in the Star. Unfortunately for Arizonans, she never resigned either.

Commission Fantasy – Ignored Issues ~ Solar Customers

It's one thing for someone to vote on something they haven't read; it's quite another for them to vote on something not even written! Yet that is exactly what happened when the commissioners voted unanimously in favor of this Decision.

At the December 12, 2014 ACC meeting, Intervener Pat Ferre brought up the fact that, under APS's extortion fee application, customers with grid-tied solar systems were required to have "smart" meters. Pat brought up the fact that this was clearly discrimination under A.R.S. 40-334.A & B.

> **A.R.S. 40-334.A & B** – Discrimination between persons, localities or classes of service as to rates, charges, service or facilities prohibited
> A. A public service corporation shall not, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person or subject any person to any prejudice or disadvantage.
> B. No public service corporation shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either between localities or between classes of service.

Intervener Pat Ferre's ten minutes at the microphone turned into about half an hour as round and round the issue went from her to APS, to the commissioners, to the ACC staff, and back and forth. Incredibly, when the commissioners finally voted for extortion fees, the issue was still unresolved.

At the end of the solar discussion, Steven Olea of the ACC staff said he had heard two explanations from APS as to why solar customers could not refuse a "smart" meter. My turn to talk was next and so I said that if APS was asked again they'd probably give a third explanation.

APS was clearly winging it and their explanations do not hold up under scrutiny.

The first explanation given by APS was that, by ACC Decision 73183, APS was bound to keep accurate track of customers' solar production and that the only way to do that was via a "smart" meter. It is worth noting here that there is nothing in ACC Decision 73183 that calls for "smart" meters as the means to accomplish the ACC's directive. Use of "smart" meters not implied in the Decision either.

APS's first explanation was total nonsense. All that is needed to accomplish that task are two analog meters. One keeps track of the solar production going out; the other keeps track of the electricity coming in from APS. Solar systems have been set up that way long before "smart" meters.

Anyone with an ounce of common sense should able to figure that out, but in case the commissioners had only half an ounce I explained that to them well over a year and a half ago when APS first made their preposterous claim in their extortion fee application (here: http://images.edocket.azcc.gov/docketpdf/0000144218.pdf). But as usual, the ACC did not pay attention to what was sent them.

APS's second explanation was delivered at the meeting by APS's Scott Bordenkircher. At a little after 5:09 on the archived meeting video, he said:

> What we also need to consider in this, and this is the reason we specifically changed that interconnection agreement for all solar systems, really relates to the operational characteristics and issues that now could become, especially in areas where we are getting high penetration, high levels of penetration of solar, especially in areas where we may potentially have high densities of this opt-out situation, we need to know what power is being injected back on to the grid. Without a way to measure that, we potentially put the rest of the grid and other customers at risk from an availability and reliability perspective.

More total nonsense! Again, had the ACC done their homework – or least read what I have sent them – they would have known that this second APS explanation is bunk.

On February 12th, 2014 I sent the ACC a submission that Massachusetts' largest utility, Northeast (which has about the same number of customers as APS), made to the Massachusetts Department of Public Utilities on January 17, 2014 (here: http://images.edocket.azcc.gov/docketpdf/0000151238.pdf).

The Northeast statement is highly significant because it echoes what I and others have been saying for years. To wit:

- There are no cost savings to be had from "smart" meters.
- "Smart" meters *do not* reduce outages.
- "Smart" meters are not "grid modernization".
- "Smart" meters are a cyber-security risk.
- Contrary to the bogus claims of "smart" meter boosters, given the choice, few ratepayers will "opt in" and ask for a "smart" meter. They have no use for one.

In their discussion of "grid modernization", Northeast puts to rest the specious APS argument that "smart" meters are needed for solar or "distributed energy resources" to be safely integrated into an electrical grid. Quoting from Northeast:

> "Meters do not reduce the number of outages; metering systems are not the only option for optimizing demand or reducing system and customer costs; and metering systems are

not necessary to integrate distributed resources or to improve workforce and asset management." (p. 4)

"In order to allow for the integration of distributed resources, sensors and systems for advanced load flow models that allow for more distributed resources on a circuit can be installed." (p. 5)

"There is also an important dynamic involved in relation to the integration of widespread distributed energy resources to the electric power grid. Industry study conducted by entities such as the Electric Power Research Institute shows that the electric distribution grid will require substantial investment to be positioned for the integration of distributed energy resources. Therefore, grid-modernization efforts have to be closely coordinated with policies that are encouraging the growth of distributed energy resources. Finite capital resources available for grid modernization should be aimed at this integration effort before any additional monies are expended on metering capabilities that provide limited and/or speculative incremental benefits over current metering technology (following many years of investment in those systems). Moreover, the growth of distributed generation and current subsidies results in the bypass of the electric distribution system by potential electric customers leaving fewer and fewer customers to pay for it. This creates a pricing crisis in practical terms for both residential and business customers remaining on the system. Huge additional investments to the distribution system will only have the effect of exacerbating the issue for customers.

Accordingly, not only is there a flaw in the Department's premise that an advanced metering system is a "basic technology platform" for grid modernization, but also the implementation of a costly, advanced metering system is at odds with policies designed to promote the growth of distributed energy resources. In directing the implementation of AMI, the Department's Straw Proposal does not address or consider this juxtaposition to any degree. However, immense, near-term investments in advanced metering systems should not be mandated without (1) methodical, valid analysis of the associated costs and benefits; and (2) the development of a plan to solve the detrimental impact of cost-shifting driven by the pervasive installation of distributed energy resources." (pp. 5 & 6)

Emphatically, with italics in the original, Northeast then states unequivocally:

"*There Is No Rational Basis for Department-Mandated Implementation of AMI.*"

Getting back to the solar discussion at the ACC meeting, APS lawyer Thomas Mumaw had explained (incorrectly) that "smart" meters were needed to measure solar production, and as previously quoted, APS's Scott Bordenkircher had explained (incorrectly) that "smart" meters were necessary for integrating solar production into the grid. The conversation finished thus:

Steven Olea (at the 5:11:32 mark): I heard two slightly different explanations from APS and so what I would suggest at this point is if, you know, you [the commissioners] can go ahead and both decide on the way it is, with, you know, whatever amendments you want. But staff will - staff engineers, and all of my engineers have left, so, so staff engineers will get with APS next week so that they can explain to me so I can

understand exactly what is happening, 'cause, what I heard is that, that the, the analog meter, the normal analog meter will spin backwards. So you can get the net metering piece that way. The piece that you can't get, is you have to put in a second meter now, on the photovoltaic system, to know what it produces. An analog meter will do that.

But what APS said in the last explanation was that what they really need is not just to know the output, but when it's happening for operational reasons, for reliability reasons. That's a whole different concern.

That's why I'd like to sit with APS and find out: OK, so what do you mean by "operational" and "reliability" with the AMI meter that's measuring the output from the PV system, not the net metering piece.

And if they can prove to our staff, to my engineers and to me that the AMI meter is the only way to operationally keep the grid safe, to keep the distribution system safe, then we will come back to you and say that. If they can't then we will come back and say that also.

But if you need to change something you can always do that later. You can always bring this item back for this specific issue, about the, about those customers with solar systems if they want to opt-out.

Bob Stump: OK

Olea: Can they, you know, can they opt-out and still keep their solar system? And we'll check into that in more detail and come back to you on that.

Stump: OK. Perfect. Great. Thanks. Thanks. Just a legal message: this item is on the agenda for notice – an opportunity to be heard.

The above exchange is incredible for several reasons.

It shows that the director of the ACC's Utilities Division, Steven Olea, went into the meeting with no idea how solar works, how it's measured.

It shows how it does not even register with Olea that APS has just lied to him. Thanks to what Pat Ferre had said, Olea seems to understand that solar production can in fact be measured via analog but there's no outrage, no acknowledgment whatever, that this is in contradiction with what APS's Mumaw had claimed, that APS needs "smart" meters to measure solar production.

Yet, despite APS having just given him misinformation, Olea is still willing to consult with APS – and only APS – "next week." Under such circumstances, APS is one of the last places I'd go for the truth. But naively, Olea still wants to meet with APS "next week" so he can solve the rest of the issue he doesn't understand.

The conversation also shows how, even though Olea is not in the ACC's Legal Division he gives chairman Stump legal advice on how Stump and the other commissioners can vote on something

unwritten then write it later. Remarkably, Stump says "OK."

Like I said previously, it's one thing to vote on something you haven't read; it's quite another to vote on something you haven't even written! I am still flabbergasted that the commissioners went ahead and voted on their Decision without resolving the serious issue of solar customer discrimination.

The episode shows how completely naïve the ACC is. It also shows how ill-prepared and unconcerned the ACC is. The ACC had not even considered this issue until it was brought up by Pat Ferre at the proverbial 11th hour. How could they not know this was an issue? Pat Ferre's battle for analog meters for her solar system went on for months and involved APS, ACC staff and commissioner Gary Pierce. Other solar customers had written in to the docket. And I had debunked APS's ridiculous solar claim almost as soon as APS had docketed it (here: http://images.edocket.azcc.gov/docketpdf/0000144218.pdf).

Is the ACC really that negligent in its consideration, its deliberation? It seems so.

The meeting may have been "open" but certainly Olea's proposed huddle with APS "next week" to sort the issue out lacks transparency or the ability for independent citizen or intervener input and observation. APS and the naïve, ignorant ACC staff making policy behind closed doors is a frightening thought indeed.

Commission Fantasy – Ignored Issues ~ Commercial, TOU, E-3, E-4 & the Overexposed

While solar customers at least got a mention, commercial, Time Of Use (TOU), E-3 and E-4 customers were not considered at all.

In APS's extortion fee application, customers are allowed to "apply" for an analog meter and, once "approved," they are only allowed APS's "standard" rate. In other words, no TOU for you.

This is just more total discriminatory nonsense, and more total ineptitude on the part of the ACC for not considering these customers in their Decision. There is no reason why TOU customers cannot retain their non-transmitting digital meter and stay on their TOU rate as TOU customers are doing right now.

Also, in APS's application, only residential customers are allowed to "apply" for an analog meter. There is absolutely no reason why commercial customers should not be able to have an analog meter. Indeed, some do right now. Again, it's just more total discriminatory nonsense, and more total ineptitude on the part of the ACC for not considering these customers in their Decision.

Typically, the ACC also forgot to discuss how customers on APS's Energy Support Program (E-3) or Medical Care Equipment Program (E-4) would be treated if they want to refuse a "smart" meter. It looks like the ACC figures if those customers cannot afford to refuse a "smart" meter then it's just their tough luck.

Then there are the people who live and work opposite banks of "smart" meters. They may be able to refuse *their* "smart" meter but how do they refuse the rest? Although the commissioners have been asked that question repeatedly over the years, they have never bothered to answer it. Certainly it is

another "matter" left unconsidered in this Decision.

I am not exaggerating when I use the word, "ineptitude," in relation to the ACC. There are so many more examples I could go on for pages. But here's one more example from the December 12, 2014 ACC meeting.

Commission Fantasy – "I haven't given it a great deal of thought."

The intervener attorney for the City of Sedona, David Pennartz, had found that in APS's extortion fee application APS was calling for account holders to indemnify APS meter readers. The language was broad enough that conceivably an APS meter reader vehicular accident on the way to a route would enable APS to go after everyone on the route for damages.

Pennartz had brought this to the attention of the ACC via a docket submission on December 4th, 2014. The meeting was eight days later, December 12th. Remarkably, Pennartz's point had not been considered at all. So when he raised it at the meeting a discussion ensued as to whether his point was valid and, if so, what should be done about it. It was obvious from that discussion that no one at the ACC, the staff or the commissioners, had familiarized themselves with his issue. They were completely unprepared.

Indeed, at the 6:01:40 mark of the archived meeting video, you can watch Legal Division director, Janice Alward, actually admit, "I haven't given it a great deal of thought."

What? Why the heck not?

Here is an intervener, a professional person hired to represent an Arizona town of 10,000 people and no one at the ACC has paid any attention to his docket submission? Incredible, but at least it made me realize I was not the only one ignored.

There's an interesting side note to this story that to me demonstrated how secure, how tight, the APS/ACC relationship is. Evidently, APS lawyer Thomas Mumaw had not bothered to read Pennartz's submission either because in his turn at the microphone Mumaw confessed that he had forgotten the indemnification clause was even in his submission.

This entire episode brings up the motion I and other interveners made before the meeting. Meetings of this sort should be evidentiary. People should be under oath. Real evidence should be submitted. Winging it, making it up as you go along would therefore be eliminated. Interveners would be on equal footing so that real questions would be asked, not the uninformed, soft ball questions the commissioners ask – if they even ask at all. The ACC should not be allowed to conduct the people's business in such a sloppy, inept and arbitrary manner.

In short, the commissioners are lying when, in the "Conclusions of Law" section of the Decision, they claim to have "fully considered these matters." They haven't. Most of the "matters" were ignored, and the few that were "considered" were certainly not considered "fully."

Commission Fantasy – "We" doesn't care.

Speaking of real questions (and again I could go on for pages with examples), it was amazing to hear APS at the meeting say that they looked into manually reading meters every other month but that it would cost the same as doing it monthly. It was even more amazing that not one of the commissioners had the brains to say, "Are you kidding me? 12 months meter reading costs the same as half that much? How do you figure that?" When it was my turn to talk I pointed out this APS absurdity, but still none of the commissioners confronted APS.

One wonders if it really is ineptitude or perhaps corruption. For example, in APS's extortion fee application docketed March 25, 2013, they claimed:

> "It is important to note that analog meters are no longer manufactured by any domestic meter supplier, and only refurbished models are available for purchase from established and reliable meter suppliers. The Company anticipates that these meters will become more difficult to obtain and more expensive to maintain in the future."

In a private meeting I had with commissioner Gary Pierce a few days later on March 28, 2013, I mentioned that APS had blatantly lied in an ACC meeting in which APS claimed analog meters were no longer available. Agreeing with me, Pierce's response – and this is a direct quote – was, "We know that's not true."

Note that his response was not, "I know that's not true," but "*We* know that's not true."

So the ACC knew that was not true but never admonished APS for publicly lying, both at a meeting and in their application? APS can make false claims in applications to the commission and "we" doesn't care? Doesn't that make the ACC complicit in fraud? Doesn't it at least show the ACC is not serving "the public interest" and cannot be trusted? How can we expect any meeting in which APS is not under oath to be just? It also pertains directly to this particular Decision since all along APS has been playing pretend about the availability of analog meters and, as a result, what a burden customers are who want them.

Commission Fantasy – APS doctors an ACC Decision and the commissioners don't care

In their extortion fee application, APS even got away with doctoring the wording of the ACC's 2007 Decision # 69736 because no one at the ACC cared, even after it was brought to their attention (which I did here: http://images.edocket.azcc.gov/docketpdf/0000144218.pdf).

APS started out their application by selectively quoting – *and actually misquoting* – ACC Decision # 69736.

APS wrote on page 2 of their application:

> "In Decision No. 69736, as a result of deliberations on the requirements of the Energy Policy Act of 2005 and the Public Utility Regulatory Policy Act ("PURPA"), the Commission adopted a modified version of the PURPA time based metering and communication standards and directed that "each electric distribution utility shall investigate advanced metering infrastructure for its service territory and shall begin implementing the technology …."

(http://images.edocket.azcc.gov/docketpdf/0000144127.pdf)

Quite familiar with the 2007 Decision, I did not recall that quote so I read the Decision again ..... and again ..... and again ..... and finally on the fourth read I figured out why I could not find the quote and what APS had done. APS doctored the quote to make it suit their needs.

Here is the exact quote. What APS cut out is in **bold**. Anyone should be able to see how the meaning was changed by APS.

> "... each electric distribution utility shall investigate **the feasibility and cost-effectiveness of implementing** advanced metering infrastructure for its service territory and shall begin implementing the technology **if feasible and cost effective.**" (Exact quote is on page 7, here: http://images.edocket.azcc.gov/docketpdf/0000075595.pdf)

Significantly, APS also left out the Decision's previous sentence which mandates a voluntary, "opt in" style program. Note the phrase, "upon customer request."

> "Within 18 months of Commission adoption of this standard, each electric distribution utility shall offer to appropriate customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level." (p. 7)

Because of the amount of schooling it takes to become a lawyer, I can only conclude that this doctoring of the ACC's Decision was done deliberately and not inadvertently. I think most people learned in high school that when a phrase is removed from a sentence it is supposed to be replaced with an ellipsis. I think most people also learned that if a phrase is essential to the meaning of a sentence then it should not be removed at all.

The point is, if APS will go to this length, what else would it stoop to?

The point is, if the ACC will overlook this, what else has it overlooked?

The point is, this entire "matter" should have been an evidentiary hearing with parties under oath.

Commission Fantasy – Where'd the ROO go to?

Speaking of sloppy and arbitrary, this may well be more than that; it may be illegal for all I know.

Docketed here http://images.edocket.azcc.gov/docketpdf/0000144182.pdf is an April 5th, 2013 email from Teresa Tenbrink, "Executive Aide" to Commissioner Susan Smith. In this email, Tembrink states she is responding "at the direction of Commissioner Bitter Smith" and that:

> "The Commissioners have not yet made a decision regarding Smart Meters. The process begins in a hearing before an Administrative law Judge and that Judge will issue a recommend order and opinion ("ROO"). Once the ROO is issued; the matter will be set

for open meeting. The commissioners will not make their final decisions regarding the case until that Open Meeting which is the designated time for the parties to discuss the ROO."

There was never any hearing before a judge.

No ROO was issued.

No ROO was mentioned or discussed at the open meeting.

Does sidestepping procedure mean the meeting and the Decision are invalid, or just that Tembrink was lying? Either way, it doesn't look good.

Commission Fantasy – ACC Dance Craze ~ The Procedural Sidestep

Speaking of sidestepping procedure, it is worth noting here that proper procedure was decidedly lacking re the "smart" meter study that the ACC asked the Arizona Department of Health Services (ADHS) to perform.

At the December 12th, 2014 ACC meeting, commissioner Brenda Burns took time to defend herself against intervener Elizabeth Kelley's claim that the ACC had failed to follow a transparent process that should have included a formal written request to ADHS commissioning the "smart" meter health study, including a description of what the goals were, what questions needed to be addressed, and what the scope of work should be.

Commissioner Brenda Burns referred everyone to the staff meeting on August 5, 2013 in which she had made the proposal and it was approved. However that did not answer Kelley's actual criticism which was that there was no formal correspondence available showing what agreements there were between the two agencies.

After the meeting Kelley stated, "This is highly improper behavior from an administrative and accountability perspective and when public officials engage in this kind of behavior it looks like they are either deliberately hiding something or they are incompetent."

In another related irregularity, it was revealed by the Safer Utilities Network (SUN) in a submission filed in this docket by their attorney, Frank Mead, that the ADHS actually admitted to giving the ACC "an early draft of the report, to see if it covered the questions asked." (p. 1, here: http://images.edocket.azcc.gov/docketpdf/0000158555.pdf)

Incredible! How on earth would the ACC know if the study covered the questions asked, unless they knew what answers they wanted in the first place?

Despite the fact that ADHS also told SUN that, "The Corporation Commission did not have input on the Report's conclusions," this business stinks.

Because there was no formal correspondence between the ACC and the ADHS, no one really knows what questions were asked in the first place. In order to get answers, the right questions have to

be asked first, not later. It's backwards, totally improper and unethical to do a study then go to the people who commissioned the study and say essentially, "Is this what you wanted?"

And that brings us to the so-called "Conclusions of Law" section of the Decision.

Conclusions of Law(lessness)

As proved above, the commissioners' Decision has no basis in law. Indeed, the commissioners have repeatedly demonstrated their ignorance and disdain for the law, and the "public interest."

The Decision states:

> "The Commission has jurisdiction over Arizona Public Service Company and over the subject matter of the application." (p. 7, line 8)

Wrong! The commission has jurisdiction over Arizona Public Service Company, but it does *not* have jurisdiction over people's private property. The commission does *not* have the authority to allow APS to take people's property for the purpose of establishing APS's own communications network. APS has a property easement for a measuring device for the purpose of billing for the electrical service it supplies to that property. APS does *not* have an easement to operate a communications network that moves not just the property owner's information but the information of others. In other words, APS cannot use my property to send, receive or relay messages that do not even involve me and have nothing to do with the supply of electricity to my house.

The Decision states:

> "The Commission, having fully considered these matters and in balancing the public interest, concludes that it is in the public interest to approve the application as modified and set forth above." (p. 7, line 22)

Wrong! As I have proved above, the commission has most certainly *not* "fully considered these matters," nor have they "balanced the public interest."

The Decision states:

> "For the purpose of this case, we will rely on the fair value rate base and fair value rate of return findings that we adopted in APS's last rate case. These findings are appropriate because few customers are expected to select this program, so any corresponding change in revenue would be de minimis." (p. 7, line 25)

Wrong! It does not matter how many customers select the program. As I proved above, it is impossible for anyone to "opt of" of something they never "opted in" to. I as proved above, the "smart" meter program is, by law, a voluntary, "opt in" program. It is robbery to expect anyone to pay anything for not volunteering. So APS's revenue issues – "de minimis" or de maximus – are irrelevant, and they are entirely APS's problem for making a poor and reckless business decision. If anything, people who refuse "smart" meters should get a refund for subsidizing "smart" meters and a "smart" grid they do not want and never asked for.

The Decision states:

> "We conclude that any pending motions/requests for further proceedings or other requests for relief are now moot and thus are deemed denied by this Order." (p. 8, line 1)

Wrong! People have been damaged by "smart" meters, and as time goes by, more people will be damaged. They will be contacting the utility and the ACC to complain, to ask for relief, etc., for damages incurred. Whether that damage be to health, property, and/or finances – or even to the broader community (the "public interest") in terms of *any* sort of diminished quality of life – *YOU* commissioners are *now and forever* liable due to your willful negligence in not "fully considering these matters" and for not "balancing the public interest" or even having a single clue as to what the public interest is.

Ain't nothin' "moot" about it.

The last section of the Decision is "Order."

(dis)Order(ly conduct)

The evidence presented in this appeal is clear. It fully substantiates that the ACC has neither 'fully considered these matters' nor 'balanced the public interest.' Additionally, highly questionable if not illegal practices have been engaged in by the ACC during this whole "smart" meter matter. As well, it looks to me that, anyone who signed this Decision is complicit in extortion, fraud, trespass, theft, endangerment of public safety, discrimination, violation of other statutes and codes, violation of ACC Decisions and procedures, willful negligence, and are in violation of their Oaths of Office.

Over a period of several years, all the signatories were repeatedly given the information contained in this appeal, and were repeatedly warned by me that their negligent actions may have legal repercussions. In short, the signatories have no more excuses.

I believe there may be a way out for the signatories however.

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.

Fact: There is a plethora of "smart" meter issues the ACC has not addressed or considered, and the only way those issues can be successfully resolved is for the ACC to recall all wireless "smart" meters under its jurisdiction at once.

Supreme Fact: "Smart" meters harm through a number of mechanisms and means.

Even the ADHS "health" study, flawed as it was, did not conclude that "smart" meters were safe. The finding of the ADHS study – *a study the ACC itself asked for* – concluded "smart" meters are "not likely to harm." "Not likely to harm" does not equal safe. *"Not likely to harm" means that harm is in fact a possibility.*

If I have to pay to avoid something that may harm me, that is extortion. Payment to avoid harm – or even the threat of harm – defines extortion. Therefore the ACC must vacate its extortive Decision # 74871, and the ACC must recall all wireless "smart" meters under the ACC's jurisdiction at once.

Any new, wired or other type "smart" meter program must follow State law by being truly voluntary ("opt in") with the fully informed consent of the customers as well as be fully vetted by independent cost/benefit and safety analyses.

This wrong, lawless, careless, deficient, negligent and dangerous Decision # 74871 is hereby appealed by me, today, January 5, 2015. Immediate relief is required as described above.

Warren Woodward
Intervener in Docket # E-01345A-13-0069
55 Ross Circle
Sedona, Arizona 86336
928 204 6434

Exhibit B

Exhibit B

Exhibit B

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Exhibit B

Warren Woodward
55 Ross Circle
Sedona, Arizona 86336
928 204 6434

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

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-ll-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:

Thomas Mumaw & Melissa Krueger, Pinnacle West Capital Corporation, 400 North 5th Street, MS 8695, Phoenix, AZ 85004

Patty Ihle, Intervener, 304 East Cedar Mill Rd., Star Valley, AZ 85541

Tyler Carlson, Mohave Electric Cooperative, P. O. Box 1045, Bullhead City, AZ 86430

Lewis Levenson, Intervener, 1308 East Cedar Lane, Payson, AZ 85541

Patricia Ferre, Intervener, P. O. Box 433, Payson, AZ 85547

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

Exhibit C

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A Pattern of Incompetence and Fraud

Exposing Major Mistakes, Misleading Misrepresentations, and Obvious Omissions in the Arizona Department of Health Services' "Smart" Meter Health Study

Information and Perspective by Warren Woodward
Sedona, Arizona ~ November 2014

Table of Contents

Full Disclosure: No one is paying me anything to research this issue and ferret out the truth. I received no "dark money". In fact, my work has cost me much of my own money in time and expenses.

Foreword

The title of this report, *A Pattern of Incompetence and Fraud*, was not chosen for affect.

This evaluation of the "smart" meter health study that the Arizona Corporation Commission (ACC) requested of the Office of Environmental Health at the Arizona Department of Health Services (ADHS), will show in detail the multitude of major mistakes, misleading misrepresentations and obvious omissions that comprise the ADHS study. (The ADHS study, *Public Health Evaluation of Radio Frequency Exposure from Electronic Meters,* may be read in its entirety at the ACC docket, here: http://images.edocket.azcc.gov/docketpdf/0000157691.pdf.)

A lover of brevity, I apologize for the length of this report, but the instances of data cherry picking and misrepresentations of scientific studies are too numerous. The spinning and equivocation is endless, the repetition of misinformation seemingly constant. And there are too many examples of ADHS omitting relevant and key material from the scientific works they review.

Then of course there are the simple, basic things that ADHS got completely wrong. As you read, remember that ADHS spent over a year on their study. They had time to get it right but they did not.

As I go through the ADHS study in the order it was written, section by section and sometimes line by line, you will see that an unmistakable pattern emerges, one of incompetence and fraud. The mistakes happen so often that they reflect incompetence, and instances where ADHS misleads occur so often that they amount to willful deception.

In addition to other information, I use the actual articles and studies that ADHS referenced to demonstrate and prove my points. I show what ADHS reported and then what was really said.

The ADHS study is a fraud on the public. Read along with me and you'll see that I am not exaggerating.

Introduction – setting goals but not meeting them

The "Introduction" portion of the ADHS study is fairly uneventful, just standard introductory stuff.

It's worth noting the goals they set forth so you can see later that they failed to meet them.

> "The goals of this report are 1) to determine whether RF exposure from electronic meters on residences, including single family homes and apartment complexes are within the FCC standards or are at levels to cause public health concern; and 2) to determine whether the current body of peer-reviewed literature has found an association between RF exposure from low level RF exposure and adverse health effects."

Notice that an actual investigation of people made ill by "smart" meters was not a goal. That is a major failing and will be discussed in more detail later.

Notice that goal number 2 entails an investigation into peer-reviewed literature. Do you see any goal listed that calls for listing and promoting non-peer-reviewed studies? I don't, yet ADHS saw fit to include six of them from four different states.

ADHS wrote: "ADHS reviewed available peer-reviewed literature to summarize potential health effects from radio frequency exposure, including exposure from electronic meters."

No, ADHS reviewed *some* peer-reviewed literature.

Background – the bamboozle begins

After a primer on electromagnetic fields and radiofrequency [RF] radiation, ADHS tips their hand by inserting this gratuitous bit of industry propaganda: "Electronic meters give utilities a means to match energy consumption with energy generation, and allow consumers to better manage their energy use."

What the heck is that sentence doing in a health report? It sounds like something out of an electric company's bill insert. Not only that but the statement is false.

1. "Electronic meters give utilities a means to match energy consumption with energy generation ...." —> That has been proved wrong by Northeast, Massachusetts' largest electric utility (discussed by me later).

2. "Electronic meters ... allow consumers to better manage their energy use." —> Complete nonsense. Nobody needs a "smart" meter to know when the lights are on. And if for some reason they do, there are energy monitors they can buy that start at $16.

ADHS continues, now with a half truth that is more industry propaganda:

> "Advanced Metering Infrastructure (AMI) meters are devices capable of two-way communication, and use RF frequencies for communication purposes. AMI meters send usage data to the electric company, and the electric companies can communicate with the meter, for example, starting and stopping service remotely."

What is always left unsaid is that wireless "smart" meters also move other people's data, not just yours. Essentially, utilities are taking your property to use for their own communications network. They have put a radio transceiver and relay antenna at your place and not compensated you for it. What if ATT or Verizon did that?

ADHS briefly mentions Power Line Communication (PLC). PLC is another, different method of "smart" meter communication whereby data is sent via existing power lines, not by microwaves.

In what will not be the first time in their study that ADHS shows a complete lack of subject matter knowledge, Table 1 on page 2 of the ADHS study has the PLC frequency listed as 57 – 63 hertz.

The PLC system does *not* transmit at 57 to 63 hertz.

I called the Trico Electric Cooperative in whose territory the Arizona Radiation Regulatory Agency (ARRA) measured for the ADHS study, and I spoke with a technical expert there. Steve Martinez told me Trico uses frequency in the range of 910 to 1122 hertz for its PLC.

ADHS is off by a mile.

Think about that. ADHS had a over a year to get their study right but they got this very basic information completely wrong – information that I was able to get completely right in a very short phone call. How can the rest of what ADHS says have any credibility? What else did they flub? Keep reading; you'll see they flubbed a great deal – and what they didn't flub they misrepresented.

And speaking of misrepresentation, we are now at a point in the ADHS study where the bamboozle of distracting, false comparisons begins.

The electromagnetic spectrum is reproduced on page 3 of the study, and ADHS points out that radio frequency can come "... from natural sources (e.g. the sun) or from man-made sources (e.g. radios)." The study goes on to say, "Some common household items use RF and are regulated by the FCC." To illustrate this point there are pictures of a radio, "smart" meter, microwave oven, television, cell phone and WiFi router, and those are grouped as "Common Household RF Sources".

Comparison with these items is the hallmark of "smart" meter boosters and apologists. A truly objective study of "smart" meter health effects would not include it.

The comparison is designed to create the impression that the "smart" meter is benign. In their propaganda, utilities also use the familiarity of these other items to imply that one more (which happens to be theirs, the "smart" meter) is therefore OK. However, lumping these various items together amounts to an apples and oranges false comparison in several ways.

The items listed – radios, microwave ovens, televisions, cell phones and WiFi routers – are all items one can choose or not choose. For example, by conscious choice I have never owned a microwave oven in my life, and we do not use WiFi in our house but wire our computers instead. I seldom listen to the radio and, when I do, our radio, unlike a "smart" meter, only receives; it does not transmit. Our television does not transmit either. ADHS is completely wrong in listing radios and TVs as "Common Household RF Sources".

Also, if chosen, an individual can limit their usage of the items shown in the ADHS study. For example, I do own a cell phone but my use is so restricted that I do not even know its number. The phone is turned off and kept in my vehicle for emergency purposes. Individuals cannot limit usage of a "smart" meter.

Exposure to "smart" meter radiation is beyond the control of the individual and, in fact, chronic – 24/7/365. Even the sun (which necessitated the invention of the hat for shielding) gives us a break for roughly half the day. The "smart" meter never quits.

Additionally, no one has to pay to "opt out" of the sun. And no one has to pay to "opt out" of a radio, cell phone, TV, microwave, or WiFi router.

False and misleading comparisons continue and abound on page 4 where the ADHS study discusses radio frequency power density, distance from radiation signal, and duration of signal.

From the ADHS: "For example, cell phones and microwave ovens emit radiation at higher power densities than Wi-Fi routers, radios, and smart meters."

Obviously a microwave oven is intentionally heating food but it is not intentional that one be exposed to that radiation which is very high in the oven. Industry typically quotes allowed leakage rates for an oven compared with smart meters. However, the actual typical peak RF from a microwave oven is about 10 microwatts per centimeter squared at one meter away, not much different than a "smart" meter.

As for the cell phone comparison, some cell phones when operating at peak level can produce a signal higher than a smart meter but most operate much lower than a smart meter due to adaptive power control and other measures intended to conserve battery power. No such conservation measures are employed for "smart" meters.

Also, exposure to "smart" meter radiation is whole body exposure whereas exposure to cell phone radiation is generally at the head only. And again, exposure to the devices other than "smart" meters is voluntary and intermittent, not chronic and involuntary as with "smart" meters.

Once again, the ADHS study's authors demonstrate their nearly complete ignorance of the subject by listing radios as RF emitters. Radios are RF receivers. They do not emit RF (unless of course they are a HAM radio).

We encounter an additional faulty comparison in the ADHS example given for distance from a radiation signal:

> "RF exposure decreases rapidly with distance. For the example of microwave ovens, a person 50 cm from a microwave oven receives about 1/100th of the microwave exposure of a person 5 cm away. (WHO 2005)"

Who stands 5 cm (2 inches) from a microwave oven?

With distance, RF does fall off quickly from a source. But a more reasonable, less biased comparison would be standing 3 feet and then moving to 10 feet away from a microwave oven. In that case the RF level *does* drop off, but to about 1/10th the initial value, not 1/100th.

Regarding duration of signal, the study states that "Americans spend on average nearly 3 hours per day on their mobile device per day. (Geekwire 2014) In contrast, smart meters in Arizona typically emit RF less than ½ hour in total during the day."

Several things are wrong with that.

First of all, the Geekwire article is not about how long people spend talking on their cell phones, but rather how long they spend on their "smart" mobile devices while web browsing and using apps.

(http://www.geekwire.com/2014/flurry-report-mobile-phones-162-minutes/)

As if those 3 hours Geekwire mentioned were all phone calls, ADHS has apparently assumed a 100% duty cycle for those 3 hours. In actual fact, it is not really knowable how much of that time involves the transmission of microwaves from the device because, in many of the app/web browsing type uses, the device is primarily receiving incoming data with only intermittent outgoing transmissions to maintain a connection.

In other words, despite ADHS's effort to do so, a definite duty cycle cannot be ascribed to the activity described in the Geekwire article. ADHS has made another meaningless and false comparison.

If anything, the ADHS study should be addressing *why* people who spend "nearly 3 hours per day on their mobile device" are getting sick after chronic exposure to "smart" meter radiation when they weren't getting sick before, especially if that additional radiation totals "less than ½ hour" per day.

The answer would be that "less than ½ hour total during the day" is more like non-stop-all-day when the transmissions are just fractions of seconds in duration. In other words, split second transmissions might add up to less than ½ an hour but, because they are split second transmissions, there are thousands of them continuously during the day and night.

You can see this basically non-stop "smart" meter transmission in my youtube videos **APS Caught Lying Again** and **Navopache Caught Lying**. Can anyone watch those videos and then think that comparison with cell phone use is fair comparison? Has the Dept. of Health Services never heard of the Death of One Thousand Cuts? It's clear from ADHS's false comparison that they do not understand chronic exposure and, in not understanding, did not bother to address or examine it.

By the way, both those videos were sent to ADHS while they were in the process of writing their study, so in my opinion they have no excuses for bungling this important point.

While APS and Navopache Electric continue to lie about the number of their SM transmissions per day (giving ridiculous, low-ball numbers of 125 and 6 respectively), utilities that have been forced to come clean have admitted vastly different numbers – PG&E as many as 190,000 times per day and Sacramento Municipal Utility District (SMUD) as many as 240,396 per day (more than 166 times per minute).

Also, the ADHS statement that "smart meters in Arizona typically emit RF less than ½ hour in total during the day" may not be correct.

Let's say the meters transmit for 1/10 of a second each time. 28 minutes of total transmissions would equal 16,800 transmissions per day. In **APS Caught Lying Again** you can see me measuring a meter I estimate to be transmitting 50,880 times per day. That would total about 1 hour and 20 minutes per day. I'll let you do the math for the far greater PG&E and SMUD numbers.

Lumped in with the study's misleading discussion of radio frequency power density, distance from radiation signal, and duration of signal, is this curious non sequitur: "**RF from the Sun:** Humans can also receive RF radiation from the sun. However, this radiation is at a different frequency from radio waves and microwaves."

As I wrote previously, people have known for thousands of years to shield themselves from the sun's radiation, and the sun is one reason why hats were invented. But how many people know to shield themselves from the radiation of 'smart" meters? Additionally, almost anyone can afford a $10 sun hat but shielding a home from microwaves costs thousands. And personal shielding outside of the home is almost impossible if one wants to live a normal life.

The sun's radiation quits for roughly ½ the day; "smart" meters do not. The sun's rays actually promote life; the "smart" meters' do not. Why is solar radiation even mentioned if not to associate some kind of general beneficence to radiation in the reader's mind? What the heck does solar radiation have to do with the health effects of "smart" meters?

Discussing some "potential health effects from radio frequency" the ADHS study says,

> "This reported sensitivity to EMF has been generally termed "electromagnetic hypersensitivity" or EHS. A survey of occupational medical centers estimated the prevalence of EHS to be a few individuals per million in the population (WHO 2005)."

Actually, the "reported sensitivity to EMF" was named by a German doctor as far back as 1932, and was then more accurately called radio wave sickness.

It is always important to call things what they really are. "Electromagnetic hypersensitivity" connotes that it is the victim's fault for being "hypersensitive" (read "weak"), and not industry's fault for poisoning them.

Also, since exposure to EMF continues to increase exponentially, it is a safe bet that the nine year old survey referenced by ADHS is well out of date. It is also likely that the survey is grossly inaccurate since many doctors are ignorant of the symptoms of radio wave sickness and so misdiagnose and mis-medicate. Indeed, many people have cured their own radio wave sickness, in spite of their doctor's misdiagnosis, by removal of the offending EMF sources, the "smart" meter being one of the major culprits.

Radio Frequency Regulations and Literature – The English Muffin Syndrome

In its discussion of "Radio Frequency Regulations and Literature", ADHS states, "The Federal Communications Commission (FCC) is an independent agency of the United States government that regulates interstate communications by radio, television, wire, satellite, and cable in the US."

What is not mentioned is that the FCC has a huge regulatory conflict of interest in that it sells frequency bandwidth and is currently chaired by a former communications industry lobbyist. This fox/hen house scenario is just one reason the FCC "guidelines" are dangerously lax and out of date (they date to 1996).

The FCC guidelines only involve protection against thermal radiation – when human tissue is heated. British physicist Cyril M. Smith, co-author of the best-seller *Electromagnetic Man*, dubbed this inadequate standard the English Muffin Syndrome – *If it's not burnt, it's all right.*

Additionally, FCC guidelines were based on a test population of average weight males. What about sensitive populations such as children and pregnant women?

Sadly – and negligently – FCC exposure guidelines do not cover non-thermal, low intensity radiation generated by "smart" meters and other wireless devices at the lower end of the microwave range. The FCC exposure guidelines are thus completely inapplicable for the microwave radiation emitted by "smart" meters.

Here are two comprehensive explanations of what I have just stated. Both are written for the layperson.

> *Serious Flaws with the FCC RF/MW Safety Guidelines*
> http://www.emrpolicy.org/faq/fcc_flaws.pdf
>
> *A Primer on FCC Guidelines for the Smart Meter Age*
> http://stopsmartmeters.org/2012/03/09/a-primer-on-the-fcc-guidelines-for-the-smart-meter-age/#skipmath

And here is a report that goes into more scientific detail:

> *Assessment of Radiofrequency Microwave Radiation Emissions from Smart Meters*
> http://sagereports.com/smart-meter-rf/

There are of course other independent reports for anyone who cares to look.

Here is one more thing about the FCC parameters which is quite interesting. For years during the Cold War the Russians bombarded the U.S. embassy in Moscow with microwave radiation, and many of the embassy workers got cancer, more than what would be normal. The bombardment was within the FCC guidelines.

> The clandestine activation of what became called the "Moscow Signal" would mark the beginning of a twenty-three year undetectable assault on the diplomatic staff of more than 1800 representing the US State Department. According to the famous Lilienfeld Report, the embassy staff would be bathing in a constant field of radio waves for about fifty hours per week that measured between 20 and 100 microwatts. These are levels well within the US safety standards today.
>
> It would be another dozen years before the US Government uncovered this covert operation and not until 1976 before the US Embassy staff would finally be informed. But it would be too late for the three ambassadors, who had served in Moscow. All three died of cancer, two of adult leukemia, which is strongly environmentally-linked. It would be too late for the hundreds of other embassy employees, who fell to a variety of cancers, including breast, prostate, brain, lymphoma and leukemia reaching the alarming rate of eight times the expected mortality rate! It would be too late for more than half the staff who suffered chromosome damage from the menacing rays.
>
> ~ Ann Louise, *Accidental Conspiracy* http://www.annlouise.com/articles/338

For a visual graphic on just how inadequate the FCC guidelines are for protecting human health, search YouTube for **Take Back Your Power - Smart Meter Radiation** and watch the 2 & ¾ minute video. (https://www.youtube.com/watch?v=64SIGJnAGeU)

ADHS provides a table of RF exposure limits derived from the very important sounding International Commission on Non-Ionizing Radiation Protection (ICNIRP) and the Institute of Electrical and Electronics Engineers, Inc. (IEEE).

IEEE is an industry promotional organization. Indeed, at their website they describe themselves as "The world's largest professional association for the advancement of technology".

Just because IEEE engineers can measure microwave radiation and tissue temperature with great precision, why is it assumed they know anything at all about the physiology to which they have applied those measurements to create their standards? I would prefer that radiation exposure limits come from an organization more focused on the advancement of health instead of the advancement of technology.

Unfortunately, IEEE is not without scandals. They have lent their name to fake conferences that exist to bilk unwitting participants. Just do an internet search for "fake IEEE conferences".

To further increase revenue, IEEE accepts papers at conferences but there is no real peer review process. Earlier this year the journal, *Nature*, described how IEEE published over 100 papers that were computer generated gibberish "to prove that conferences would accept meaningless papers." (http://www.nature.com/news/publishers-withdraw-more-than-120-gibberish-papers-1.14763)

The International Commission on Non-Ionizing Radiation Protection (ICNIRP) has a report used by many "smart" meter cheerleaders and apologists. In *Exposure to High Frequency Electromagnetic Fields, Biological Effects and Health Consequences*, ICNIRP states,

> "Results of epidemiological studies to date give no consistent or convincing evidence of a causal relation between RF exposure and any adverse health effect. On the other hand, these studies have too many deficiencies to rule out an association."

You've got to love that as a perfect example of equivocation. There is "no consistent or convincing evidence" but at the same time we can't rule it out. Thank goodness people have only two sides of their mouths otherwise they might have thrown in a third diametrically opposed conclusion.

The people who authored ICNIRP's EMF exposure guidelines were unqualified for that task. One-sided, they rejected peer-reviewed studies that showed DNA damage at low exposure levels. You can read about it in this short article, *ICNIRP Guidelines on Genotoxicity,* here: http://microwavenews.com/short-takes-archive/icnirp-guidelines-genotoxicity .

At their website, ICNIRP portrays itself as independent of industry yet according to the Microwave News "A number of industry consultants advise ICNIRP – Leeka Kheifets and David Black come right to mind." (http://microwavenews.com/short-takes-archive/icnirp-elections-matthes-feychting-are-new-leaders)

By the way, scientist-for-hire Leeka Kheifets was at APS's side at the first Arizona Corporation Commission "smart" meter meeting in September of 2011. She gave a power point presentation largely based on the biased and discredited CCST report (which will be discussed later since ADHS made the mistake of including it in their study).

So ask yourself, would you trust your health, your life, to ICNIRP or IEEE? I know I wouldn't. Reminds me too much of "9 out 10 doctors smoke Camels." When money's involved, many people will do or say anything. Or as Dr. John put it so well in *Babylon*, "This is not the land of milk and honey. This is the place where people sell their souls out for money. And you know they do."

ADHS faithfully parroted the ICNIRP, IEEE, FCC line when they wrote the following about "time-averaging". Sadly, ADHS did not have the wits to realize how preposterous a concept it is, how this major flaw condemns the FCC guidelines to absolute irrelevance regarding health effects:

> "The time-averaging concept can be used to determine the levels of exposure. This means that it is acceptable to exceed the recommended limits for short periods of time as long as the average exposure does not exceed the limit."

Actually, what that means is that they are averaging power density over time to make that power seem OK. It's a way to level off peaks in transmission, to make those peaks disappear.

Think about this: If I hit you with a hammer will it feel better if we "time-average" that blow? Would you like to try that? I can show you on paper how, when averaged out over time, you'll hardly feel anything.

On page 5 of their study, ADHS attempts to dismiss non-thermal radiation effects with a 5 sentence statement from the industry agenda driven and discredited IEEE. In so many words, IEEE claims they are aware of non-thermal effects of microwave radiation but those effects are "insufficient to be considered a health hazard". It has already been established that this "professional association for the advancement of technology" is sloppy and money-driven. Why should we assume this time is different, especially when there are plenty of studies that do in fact show non-thermal effects.

There is a table on page 6 of the ADHS study that shows microwave radiation exposure limits in use in the U.S., Canada, Australia, New Zealand, and Russia. ICNIRP and IEEE limits are listed as well. ADHS says that all those countries but Russia base their standards on ICNIRP. Is it any surprise then, that independent Russia – which is outside the corrupting influence of ICNIRP – would have a more stringent standard?

For a full discussion of the corruption of science involved in countries that rely on ICNIRP, read this dissertation by Don Maisch, PhD: *The Procrustean Approach – Setting Exposure Standards for Telecommunications Frequency Electromagnetic Radiation. An examination of the manipulation of telecommunications standards by political, military, and industrial vested interests at the expense of public health protection.* (http://www.emfacts.com/papers/)

State Studies – What are they doing here?

On pages 7 to 10 of the ADHS study we are treated to a review of "smart" meter studies from

California, Texas, Maine and Vermont. None of the studies are peer-reviewed.

Recall that in its introduction to this study, ADHS gave as one of its 2 goals:

> "... 2) to determine whether the current body of peer-reviewed literature has found an association between RF exposure from low level RF exposure and adverse health effects."

Since ADHS gave as their goal a review of peer-reviewed literature, one wonders then, what this *non*-peer-reviewed literature is doing in ADHS's study, especially since those six studies have all been thoroughly debunked as little more than misinformation and industry propaganda.

Even without a background in science and without knowing anything about the California Council on Science and Technology (CCST), it is easy for anyone capable of critical thought to see that the CCST study is a propaganda piece. The document is supposedly about the health aspects of smart meters. Yet several times, after just a few pages in, one finds the prose peppered with propaganda about how the meters will make the grid "clean", "efficient", "reliable", "safe" and etc.

First of all, Massachusetts' largest utility, Northeast, has proved that "*An Advance Metering System is not a "basic technology platform" for grid modernization and is not needed to realize "all of the benefits of grid modernization."*" [italics in original] Anyone can read their full report along with my letter about same at the ACC docket here: http://images.edocket.azcc.gov/docketpdf/0000151238.pdf .

Secondly and more importantly, unless for propaganda purposes, why are the alleged benefits of "smart" meters even mentioned in a study that is supposed to be about "smart' meter microwave radiation health issues?

The CCST report is not primary research. Its conclusions are based on cherry picked information. It has every appearance of "science" for a preconceived outcome because contributors to the report whose findings did not support that preconceived outcome – that "smart" meters pose no public health problems – had their solicited submissions removed but they were still listed as contributors!

Here is what rejected contributor Dr. Magda Havas had to say about the CCST and their report:

> January 17, 2011. The California Council on Science and Technology (CCST) released their report on Smart meters "Health Impacts of Radio Frequency from Smart Meters". Click here to download this document.
>
> CCST invited me to submit a written report as part of a *Technical Response Team* in October 2010. Note: CCST did not offer, and I did not request, payment for my report.
>
> In December I was informed that neither my report nor any of the others would be appended to the final document nor would they be made available to anyone.
>
> My submission does not support the final conclusions in the CCST report and I provide it here for anyone interested. For a pdf copy click here.

The CCST is so intellectually dishonest that they still listed Dr. Havas as a contributor to their report even though they rejected her findings. You can see her name listed on page 36 of the CCST report linked above.

Also on page 36 you'll see the names of two others who had their findings rejected but were still listed as contributors – Dr. De-Kun Li, MD, PhD Senior Reproductive and Perinatal Epidemiologist at the Kaiser Foundation Research Institute, and Cindy Sage, MA, Department of Oncology, University Hospital, Orebro, Sweden.

Outcast Dr. Raymond Richard Neutra, MD, CM, MPH, Dr. PH, former Director of the California EMF Program, can be found listed as a contributor on page 44 of the CCST report. And the rejected California Department of Public Health is listed on page 37.

It's always important to "follow the money" and on page 1 of the CCST's 2012 annual report they brag that "CCST also has strong connections to industry through its membership." (http://www.ccst.us/annualreport/2011-12/2011-12AR.pdf)

The CCST also has strong connections to the U.S. Department of Energy (USDOE), the same U.S. Department of Energy that subsidized the "smart" grid to the tune of 4 billion dollars. (https://gigaom.com/2009/11/24/smart-grid-stimulus-demo-award-winners-unveiled/)

Again on the same page of the CCST's 2012 report, the CCST lists Lawrence Berkeley National Laboratory, Lawrence Livermore National Laboratory, and SLAC National Accelerator Laboratory as "Sustaining Institutions". These labs are USDOE labs and so are funded by USDOE. It's a mutual admiration (and funding) society.

The next state study referenced by ADHS, the Public Utility Commission of Texas' (PUCT) "Report on Health and Radiofrequency Electromagnetic Fields from Advanced Meters" was directly funded by the U.S. Department of Energy. On page ii of the PUCT report it says, "This document is work supported by the Department of Energy under award numbers DE-OE0000092 and DE-OE0000180." (http://www.puc.texas.gov/industry/electric/reports/smartmeter/SmartMeter_RF_EMF_Health_12-14-2012.pdf)

Those two grants totaled millions. Does anyone think that the "smart" grid's sugar daddy, USDOE, would fund a report if it thought the report would conclude that "smart" meters made people sick?

By the way, number 1 on PUCT's list of sources is none other than the CCST study. All these pro-"smart" meter studies reference one another as in a mutual admiration society, and repeat each others' lies and misinformation. Unfortunately, now ADHS is another link in the chain of fraud.

Something else all these sorts of studies and reports have in common is that none were done before the installation of "smart" meters. They were all done as after-the-fact damage control. People got sick and complained, so industry and government funded studies to avoid liability, to tell people there's nothing to worry about, and to tell people made sick by the meters that it's all in their heads.

Alan Rivaldo, the PUCT report's author, confessed in his cover letter to the report that "Staff relied heavily" on CCST, Lawrence Berkeley National Laboratory and the Electrical Power Research Institute to reach their conclusions.

The Electric Power Research Institute (EPRI) is an industry advocacy group. EPRI actually call themselves an "industry collaborative", and they have a very long list of member utilities. At their website, EPRI boasts that members "pool their resources to fund research", and that "While most members are electric utilities, many are firms, government agencies, corporations, or public or private entities engaged in some aspect of the generation, delivery or use of electricity."

Given the above, does anyone think that EPRI is qualified to weigh in on a health debate? Does anyone think EPRI would be offering objective, impartial opinions on anything?

As I mentioned before, Lawrence Berkeley National Laboratory (LBNL) is a USDOE lab and full fledged "smart grid" cheerleader. I've seen their papers and power points on the subject. They love the "smart" meters they are paid to love and are not impartial.

With these three then – CCST, EPRI, and LBNL – as the sources that the PUCT staff "relied heavily on", does anyone think the PUCT report would be objective?

If you answered NO you answered correctly because it was not objective.

In testimony to the Massachusetts Department of Public Utilities, telecommunications standards expert Dr. Don Maisch summed up the PUCT report thus:

> "The report, written for the Public Utilities Commission of Texas (PUCT), was prepared by Alan Rivaldo, a Cyber Security Analyst at PUCT. Titled **Health and RF EMF from Advanced Meters** the report takes the extreme view that a scientific consensus has been reached within the body of scientific evidence for RF, and people who do not understand this are suffering from misconceptions based on faulty assumptions. This supposed consensus according to Rivaldo is that there are no known non-thermal effects from exposure to RF. He asserts that reports of EHS are unrelated to RF exposure but may be due to psychiatric conditions or stress from worry, going on to say that 'scientific studies show that people who are ill are highly receptive to negative suggestions and may demonstrate a nocebo response as a result of these suggestions'. The overall impression given by the report is that the 'weight of scientific evidence', as presented by organizations such as the IEEE, ICNIRP, the FCC and others, is a body of credible research which is above serious reproach. Any claims otherwise come from notorious, biased researchers who lack scientific rigor. In what is unusual for a supposedly scientific document, the report resorts to making personal attacks on a number of people. While serving up a diatribe against anyone claiming that non-thermal effects exist, especially about smart meters, the author altogether overlooks the significant industry biases and level of scientific uncertainty that exists in the RF controversy, relying exclusively on industry sources for his claims. As such, the PUCT report reads more like the writings of a product defence PR company than a scientific review, which it is not." [Maisch's full testimony is here:

http://skyvisionsolutions.files.wordpress.com/2014/05/maisch-submittal-to-the-ma-dpu-on-electric-grid-modernization.pdf]

ADHS boils down the PUCT report to 3 main points. Lifted straight from the PUCT report's executive summary, point number 1 is that:

> "Decades of scientific research have not provided any proven or unambiguous biological effects from exposure to low-level radio frequency signals. All available material was reviewed, and no credible evidence to suggest that smart meters emit harmful amount of EMF radiation was found."

That's important and authoritative sounding but is really total nonsense.

It is always essential to pay attention to the actual words used. "No credible evidence" begs the question, *credible to whom?*

It's not overly surprising that mountains of evidence of biological effects would not be "credible" to author Rivaldo since he has no technical expertise in the subject of health. He was a former Xerox employee and calls himself a cyber-security analyst.

"No credible evidence" is a phrase common to "smart" meter cheerleaders. Here are some other commonly used wiggle words to be on the lookout for when reading studies such as the ones listed by ADHS – and when reading ADHS's own study as well. Dr. Magda Havas says, "These are words used to mislead, downplay, divert from the real meaning intended in scientific studies." And here is her list of wiggle words [red and italics and bold in original]:

1. ***authoritative*** *reviews*: groups who think like us
2. *no* ***clear*** *evidence of adverse health effects*: there is evidence of adverse health effects
3. *while there are* ***small*** *physiological effects*: there are physiological effects
4. *no* ***definite*** *adverse health effects:* there are adverse health effects
5. *need for further research*: delay tactic
   There is always a need for more research to better understand something. The real question is do we have enough of an understanding to change policy?
6. ***possible*** *associations between RF fields and adverse health outcomes*: there are associations between RF fields and adverse health outcomes

Actually there is a boatload of "credible evidence". A primary source would have been Texans made sick by "smart" meters. But as with the ADHS study and the other state studies that ADHS reviewed, the human element is always left out. I'll have more to say about ADHS' mishandling of this

crucial point later in this report.

ADHS' major point number 2 gleaned from the PUCT report is "Smart meters do not emit or utilize ionizing radiation."

I am amazed that is listed as a major takeaway since I don't think anyone in Arizona (or probably Texas either) has made that allegation. The point is a non-sequitur.

Point number 3, again lifted from the report's executive summary (but at least this time credited), is "Smart meters are not intended for, are not designed to, and do not have the capability to harm an individual or direct a person's thoughts or actions (Rivaldo 2012)."

More nonsense. While "smart" meters may not be "designed" or "intended" to cause harm, they *do* in fact have the capability to harm an individual because individuals have been harmed! That was one of the main reasons why the PUCT report was done.

As I mentioned previously, it is outside ADHS' stated goal to include these non-peer-reviewed studies from the four states, but one must *really* question ADHS' judgment for having included the Maine study.

I was able to get the internal emails of the people involved in putting that study together – the "Maine CDC Smart Meters Team". They were completely at sea. They had little idea what they doing. Basics such as how often and when the meters transmitted were completely unknown to them.

For just one example, "Team" member Jay Hyland, sounding very important as the "Director" of the "Maine Radiation Control Program", had this to say *after* the report went out:

> "We are still getting a number of calls per day on the smart meters, AMI, project. There is a fair amount of confusion regarding when the meters broadcast, and what the different pieces of the system are expected to do. My understanding is the meters broadcast on some regular time table like once per hour, unless the meters are acting as a repeater for other meters, in which case the first meter would broadcast 6 times per hour, or something of that nature. Could you please let us know what protocol the meters broadcast under? Answering the when, where, why of the broadcast parameters. Is the maximum broadcast amount something like a tenth of a second every second? The statements we have been hearing and reading say things like "they will be operating for 41 minutes a day" and "they will do most of their communicating at night". While we don't know specifically where this comes from it would be good to know what the protocol or specifications are, because they operate 10% of the time, could easily fall into either of the above statements."

Can everyone agree that "protocol or specifications" would have been "good to know" ***before*** Maine CDC wrote and submitted their report? Wouldn't that have been a basic first step, especially for the Team's "radiation expert"?

Other embarrassing email excerpts and examples of incompetence on the part of the "Maine CDC Smart Meters Team" can be found in my ACC docket submission on the subject. The "Team" was

so lost and out of it they would be comedy if lives were not at stake.

My ACC docket submission also includes all their internal emails which were posted at the Maine Public Utilities Commission docket by the law firm of Taylor, McCormack & Frame. (my ACC docket submission here: http://images.edocket.azcc.gov/docketpdf/0000146483.pdf)

Unfortunately for Arizonans, the uncritical repetition of Maine's sloppy nonsense by ADHS is reminiscent of the gibberish papers accepted and published by the IEEE that I mentioned previously.

One of the points in the Maine report that ADHS chose to pass along was

> "With regards to electromagnetic hypersensitivity (EHS), the smart meters team concluded that the majority of studies indicate that EHS individuals cannot detect EMF exposure any more accurately than non-EHS individuals, and that well controlled and conducted double-blind studies have shown that symptoms were not correlated with EMF exposure."

Wiggle words alert! "Majority of studies" means that there are in fact studies that show the opposite.

Industry has the money to pump out study after study. They have the influence to taint and corrupt government studies as well. Therefore, people doing real, independent research will most likely be in the minority. The intent behind phrases such as "majority of studies" is to create doubt surrounding studies that are in the minority and to marginalize them.

"Weighing the evidence" or "weight of evidence" are similar phrases designed to manipulate perception. Like "majority of studies", it usually means adding up how many studies or evidence is on one side and how much is on the other.

That said, those 'majority of EHS studies' are nonsense when you know how they are conducted. People are expected to react to an RF source like someone would to a light being turned on and off. "Can you feel it now?" "How about now?" While some people *can* react instantaneously to RF, many get sick and stay sick in a way comparable to hay fever. Just because the irritating pollen is removed does not mean they recover immediately.

Shame on ADHS for perpetuating an attempt to marginalize sick people.

ADHS wasted paper to also include the fact that 3 years after the "Team's" report, the Office of the Maine Public Advocate hired True North Associates to measure "smart" meters at 3 residences.

Wow, what an exhaustive, comprehensive sampling! Not surprisingly, True North found the 3 in FCC compliance. Because the FCC guidelines are only thermal based, what that means is that the people who live in those homes can safely rule out being burned by the microwaves they are being bombarded with. I'm sure they are relieved to know that.

ADHS referenced two Vermont studies.

The independent, non-profit EMR Policy Institute did a thorough debunking of the Vermont Department of Health's (VDH) report, "Radio Frequency Radiation and Health: Smart Meters," the first Vermont report reviewed by ADHS. (http://publicservice.vermont.gov/sites/psd/files/Topics/Electric/Smart_Grid/radio_frequency_radiation_and_health_smart_meters%5B1%5D.pdf)

Among its conclusions the EMR Policy Institute found that:

- **"Non-thermal effects are NOT theoretical and HAVE been recognized by experts as problematic."** [**bold** and caps in original]

- "While no reference list is found in VDH's Report, it appears to ignore the wealth of peer-reviewed scientific literature that demonstrates adverse biological effects at exposure levels well below the US FCC RF exposure guidelines."

- "VDH's Report ignores the analysis of the 2008 NAS [National Academy of Sciences] Report that delineates the flawed scientific record upon which FCC's RF safety guidelines are based. Instead VDH finds that "current regulatory standards for RFR from smart meters are sufficient to protect public health.""

- "VDH's Report did not carry out an in-depth analysis to determine if its reliance on the current US FCC RF radiation exposure limits based on science published prior to 1986 fulfills VDH's stated first priority to "focus on prevention, which is perhaps the best investment that can be made in health."" (http://www.emrpolicy.org/files/14mar2012_emrpi_VDH_open_letter_SM_Report.pdf)

The EMR Policy institute also criticized VDH for relying on the discredited CCST report.

The EMR Policy Institute hammered VDH so effectively for the faulty methodology and incorrect measuring equipment that VDH used, that I suspect that's the reason Vermont did a second study, this one commissioned by the Vermont Department of Public Safety and titled "An Evaluation of Radio Frequency Fields Produced by Smart Meters Deployed in Vermont" and performed by Richard Tell Associates. (http://publicservice.vermont.gov/sites/psd/files/Topics/Electric/Smart_Grid/Vermont DPS Smart Meter Measurement Report - Final.pdf)

That is the other flawed Vermont study ADHS chose to include and use to point out that "smart" meters transmit within FCC guidelines (so that, like Vermonters, we can all stop worrying about being burned by "smart" meter microwaves).

Richard Tell's report is obviously another propaganda piece. It contains all the false, meaningless comparisons with other wireless sources that we've seen in other reports. Towards the end it is hard to keep track of how often Tell has mentioned and compared "smart" meter microwave transmissions to that of things like microwave ovens, cordless phones, wireless routers and even big radar installations. Such comparisons are totally off-subject nonsense and have no business being in a supposedly scientific report on "smart" meter microwave transmissions.

Indeed, in his introductory summary Tell wrote, "This study was aimed at assessing compliance of smart meter signal intensities with regulations established by the Federal Communications Commission (FCC) that prescribe limits for safe exposure of humans." So what does that have to do with a microwave oven or a cordless phone?

Tell was following the script of other reports, trying to use familiarity with other microwave emitting products to make "smart" meters seem OK. He was trying to make it seem like it's OK for utilities to bombard us with microwaves because some of us are likely doing it to ourselves anyway. 'Hey, what's a little more amongst friends?' Only it's really a lot more, and we aren't friends.

Tell discredited himself and exposed himself as an industry shill with the inclusion of this off-subject propaganda and lame attempt at perception manipulation. Additionally, at his bio at his website we find out Tell is basically trained in physics, math and radiation sciences. His expertise is not health or epidemiology yet he implied many health claims throughout his report, all of which are based on "compliance" with FCC rules which – guess what? – he helped write!

From his website bio (http://www.radhaz.com/company/richard-tell-bio):

> *During his tenure at the EPA, his program provided technical support to the Federal Communications Commission (FCC) as the FCC adopted new rules for human exposure to RF fields.*

What a sweet deal! Tell can help write guidelines in the public sector and then make a living in the private sector showing how toxic microwave emissions are OK because they fall within those guidelines.

In his report Tell kept mentioning how the FCC guidelines are based on 30 minute exposure time spans. Hello? How about 24/7/365 time spans, which is the real world?

On page 27 Tell described the FCC guidelines thus: "...present day RF exposure limits are based on time-averaged values of RF power densities...."

We are back to my time-averaged hammer blow analogy. Does anyone think Tell would volunteer to get hit with one? After all, if we time average it, it shouldn't have any "adverse health effects".

For Tell to harp on the fact that the meters he measured comply with the inadequate FCC guidelines that he helped write is meaningless in any serious health discussion.

Scientific Publication Review – an incredible pattern of fraud becomes obvious

In the ADHS' "Scientific Publication Review" portion of their study, wiggle words abound as well some outright cherry picking of information, misrepresentation and what looks like deliberate deception.

Here are some wiggle words and phrases from that portion of the study. The crafted language sets

up a slippery slope, and at the bottom lies our ill health.

"the literature is not clear" --> **Remember wiggle word #2? *no clear evidence of adverse health effects* means that there *is* evidence of adverse health effects.**

"Other studies concluded exposure to RF from a variety of sources was associated with adverse health outcomes. However, …." **—> The studies that show harm are always downplayed with a "however" or some other qualifier.**

"Sometimes a study that suggests an exposure is associated with an adverse health outcome is countered by another similar study that suggests there is no adverse health outcome at that exposure level." **—> How often is "sometimes", and isn't that a reason to at least err on the side of caution anyway?**

"In addition, many of these conclusions were based on results that showed biologic changes. Biologic changes do not always lead to the expected adverse health outcome." **—> So if biologic changes don't "always" make people sick then we don't need to worry?**

The slope is getting steeper by the way, as we now get schooled by none other than NASA in the difference between "biological effects" and "adverse health effects".

According to NASA, "Biological effects are alterations of the structure, metabolism, or functions of a whole organism, its organs, tissues, and cells."

But not to worry, because NASA says, "Biological effects can occur without harming health and can be beneficial." **—> Great! Can I get some beneficial cellular alterations from a "smart" meter?**

According to NASA, an "adverse health effect" is "A biological effect characterized by a harmful change in health."

This whole lead-in is to make a lot of room in your mind for ignoring what is really happening, and to prepare you for the rock bottom of the slope in which ill health gets redefined as health. Check out this next paragraph from the ADHS study:

> "For example Juutilainen, et. al. reviewed *in vitro, in vivo,* and human studies on a variety of adverse health outcomes. The authors stated, "the studies discussed in this review indicate that there may be specific effects from amplitude-modulated RF electromagnetic fields on the human central nervous system. The effects reported (changes in EEG, cerebral blood flow and performance in a memory test) are relatively minor, and do not at present allow conclusions concerning possible adverse health effects."

So, breaking that paragraph down, we learn:

- "adverse health outcomes" from microwaves were studied.
- There "may be specific effects" on your "central nervous system".

- Even though there "may be specific effects" it turns out that actual *reported effects* were changes in the electrical activity of your brain (EEG), the blood flow in your brain, and your memory.

- But you do not have to worry because the effects to your brain are "relatively minor" (relative to what?), and "do not at present allow conclusions concerning possible adverse health effects."

Welcome to rock bottom, everyone, where the effects to your memory are so "relatively minor" that you won't even remember them.

It is simply incredible that this deceptive double talk passes for health science, and that it could be repeated in a health study supposedly done for the benefit for Arizonans.

The ADHS "study" gets worse as one reads along. Permit me to translate.

"No consistent evidence has been found …." **—> So evidence *was* in fact found.**

"They also stated that although there were some studies that suggested adverse outcomes from lower level exposure to RF, this apparent association might be due to many factors including poor study design, errors, or incorrect assumptions regarding exposure conditions." —> **Or maybe, just maybe, these "adverse outcomes" happened because the studies were done right and microwaves really do make people sick, or rather, experience "adverse outcomes."**

"the weight of scientific evidence from 45 peer reviewed investigations" **—> There's that scale again.**

"They concluded that, based on the available information, an elevated cancer risk associated with cell phone use cannot be ruled out because increased cancer risks were observed in epidemiological studies. Yet, all studies have some methodological deficiencies …." **—> Cancer cannot be ruled out but don't worry because every study has something wrong with it.**

"Overall, this review concluded that: the large majority of individuals who claim to be able to detect low level of radio frequency EMF are not able to do so under double-blind conditions." **—> Just in case you forgot this phony assertion that ADHS picked out of the sloppy Maine study, here it is again.**

"In another study, Karaca et. al. (2012) stated that "the results of our study support the proposition that cell phones may have a potential to cause hazardous effects on the genome; however, in in vivo conditions, the duration of exposure and the capacity of DNA repair may prevent the development of cancer to an extent." **—> You gotta love that one. Cell phones can mess with your genomes but you'll probably get over it, "to an extent."**

Actually, ADHS cherry picked that last sentence, probably because it was one they could find with the qualifying "however". The gist of Emin Karaca's investigation, "The genotoxic effect of radiofrequency on mouse brain," is really quite different than how ADHS is spinning it by representing the entire study with just that one particular sentence.

(http://www.avaate.org/IMG/pdf/Kanaca_et_al_2011.pdf)

Here is a more representative sentence. In discussing his findings, Karaca wrote: "DNA damage has been found to be increased by 10 times compared to the control cell cultures which were not exposed to RF waves."

Karaca then discussed some other studies that showed DNA damage and he concluded, "Therefore, the results of our study support the findings of those previous studies."

And in the study's abstract we find this summary sentence, "Cell phones which spread RF may damage DNA and change gene expression in brain cells."

ADHS should really be ashamed for misrepresenting the Karaca study, and for attempting to mislead Arizonans.

But if you think that's bad, we now come to the part of the ADHS study where some *serious* misleading, misrepresentation and cherry picking of information occurs. As well, the review it's picked from is so bad to begin with that one could almost say it's cherry picking of ***mis***-information.

On page 13 of the ADHS study, there is a table that ADHS describes thus: "Vigjayalaxmi compiled the conclusions on the biological effects of RF exposures from various national and international expert groups. Below is a summary table of these conclusions (2014)."

Wow, "national and international expert groups"! Sounds important ..... until you actually read the review. (Here: http://www.mdpi.com/1660-4601/11/9/9376/htm)

It's junk. I knew that as soon as I read this in the introduction:

> "For human health risk assessment, it is essential to use the "weight of scientific evidence" based on the quality of published studies which should include detailed description of RF dosimetry, exposure conditions and protocols consistent with good laboratory practices, sample sizes with sufficient statistical power, as well as confirmation and replication studies conducted by independent researchers. International organizations, such as the Institute of Electrical and Electronic Engineers (IEEE) and the International Commission on Non-Ionizing Radiation Protection (ICNIRP) have considered all of the available peer-reviewed scientific literature and used the weight of scientific evidence approach to set-up the guidelines or standards for RF exposures in occupationally exposed individuals and the general public to protect against established adverse effects [12–14]."

There's that "Weight of the evidence" again, and this time IEEE and ICNIRP have their thumbs on the scale.

But it gets much worse.

I couldn't believe my eyes when I read this on page 24 of Vigjayalaxmi's report:

> "Some "negative" comments. (i) The selection procedure used to select the members in expert groups (EGs) in various countries was neither clear nor transparent. (ii) It was difficult and almost impossible to verify "no conflict of interest" of the members in the EGs. (iii) The criteria used for evaluations were not sufficiently described in some reports. (iv) Some members participated in more than one expert group (for example, the experts in SSI report were also some members of ICNIRP). (v) Several EGs did not consider the health risks associated with mobile phone base stations. (vi) There was an apparent "bias" in selecting the papers for evaluation: the reports that support their analysis were reviewed and left out those that contradict their conclusions."

Why would anyone take this review seriously? Indeed, three "expert group" members had this to say, "There should be some concern that there are working group members who are the very researchers assessing the quality of their own studies."

Not only did ADHS conveniently leave that information out of their study, they also left out the Vigjayalaxmi review's discussion of radiofrequency radiation being classified as a Class 2B carcinogen by the World Health Organization (WHO). In fact, ***nowhere*** in the ADHS study is the WHO's classification ever discussed or even mentioned.

It's an incredible omission.

ADHS completely left the WHO out of the table they created on page 13 of their study.

The Vigjayalaxmi review actually had two tables in it with more information in each than what ADHS displayed in theirs. ADHS's table is a combination of those two tables and a condensation of the information. ***But***, when the tables were combined by ADHS, ADHS omitted the WHO along with the WHO's conclusion that radiofrequency is a Class 2B carcinogen.

Was this omission was another flub by incompetents, or a deliberate attempt to deceive the public? While you are deciding, don't forget that ADHS had over a year to get their study right.

Last in the ADHS's "Scientific Publication Review" section of their study, we come to their discussion of a report by Dr. David Carpenter, MD. Carpenter is an expert in radiofrequency health and he advocates against "smart" meters. Carpenter does not equivocate.

I am guessing ADHS included Carpenter to appear "balanced".

In the paragraph summarizing one of Carpenter's articles, ADHS wrote,

> "Excessive exposure to RF radiation increases risk of cancer, male infertility, and neurobehavioral abnormalities. Smart meters usually produce atypical, relatively potent, and short-pulsed RF microwaves whose biological effects have never been fully tested and may, in fact, be more hazardous than other waveforms. Electronic meters can add significantly to aggregate RF exposure."

In "gotcha" fashion, ADHS then dismisses Carpenter out of hand by saying that the measurements he gave for "smart" meters fall within FCC guidelines, the implication being there

cannot possibly be a problem if measurements fall within FCC guidelines so there is no point in considering Carpenter's findings.

ADHS:

> "However, at further study of the article, the article states that a typical electronic meter with a 5% duty cycle at a distance of **20** cm (= 0.656 ft) emits **11** pW/cm2 of RF radiation. This is equal to **0.11** W/m2, which is well below the FCC community guideline of 6 W/m2."

ADHS doesn't seem to realize or acknowledge that this value is actually just ***above*** the Russian standard that they discuss later.

Individual Health Effects – more wiggling

In the "Individual Health Effects" portion of the ADHS study, ADHS claims to have "conducted a literature search of peer-reviewed articles on the potential effects of RF radiation." But then ADHS says, "Most of the studies concluded that there was no association between RF exposure at low levels and adverse health outcomes."

"Most of the studies" is a variation on "weight of the evidence". If you entered a room full of snakes and "most" of them were nonvenomous would you feel safe?

Submissions from the (ignored) Community – the deception and fraud continues

In the "Submissions from the Community" portion of the ADHS study, ADHS says, "Arizona residents have submitted a plethora of information to the Arizona Corporation Commission's eDocket relating to RF exposures from electronic meters."

What a pity for Arizonans that ADHS learned nothing from that "plethora".

What a pity for Arizonans that once again ADHS cherry picked that information for inclusion in the ADHS study.

What a pity for Arizonans that, in at least one instance, it is obvious that ADHS had absolutely no understanding of what they were reading, that they were in way over their heads.

ADHS wrote:

> "The types of information submitted by residents included news articles, websites, peer-reviewed studies, documents released by governmental regulatory or advisory bodies, anecdotal descriptions of how residents believed electronic meters were affecting their health, and personal opinions."

So how did ADHS respond to all that information? "ADHS reviewed the peer-reviewed studies and government documents" and ignored the rest.

ADHS claims to have "reviewed all 38 journal articles assessing health implications that were submitted to the ACC's eDocket. ADHS provided a summary and response to the three articles that were most often mentioned articles in Appendix B."

Why only the top three? Who knows? Perhaps it was so ADHS did not have to deal with other studies that they didn't think they could spin.

At Appendix B, ADHS reviewed those top three starting with "Electromagnetic and Radiofrequency Fields Effect on Human Health" by The American Academy of Environmental Medicine (AAEM). ADHS listed that article's salient points as:

- In the last 20 years, physicians began seeing patients who reported that electric power lines, televisions, and other electrical devices caused a wide variety of symptoms.
- Multiple studies correlate RF exposure with diseases such as cancer, neurological disease, reproductive disorders, immune dysfunction, and electromagnetic hypersensitivity.
- Exposure limits determined by the FCC and other regulatory agencies do not account for effects from non-thermal radiation.

Still cherry picking, ADHS saw fit not to include what the AAEM itself listed as the salient points of its own statement:

- An immediate caution on Smart Meter installation due to potentially harmful RF exposure.
- Accommodation for health considerations regarding EMF and RF exposure, including exposure to wireless Smart Meter technology.
- Independent studies to further understand the health effects from EMF and RF exposure.
- Recognition that electromagnetic hypersensitivity is a growing problem worldwide.
- Understanding and control of this electrical environmental bombardment for the protection of society.
- Consideration and independent research regarding the quantum effects of EMF and RF on human health.
- Use of safer technology, including for Smart Meters, such as hard-wiring, fiber optics or other non-harmful methods of data transmission.

(http://www.aaemonline.org/emf_rf_position.html)

ADHS completely dismissed the AAEM findings by simply saying, "AAEM are not recognized by the American Board of Medical Specialties."

I guess *that* settles *that* then doesn't it? No point in listening to *that* organization. It didn't join the trade association. And never mind that most of the individual members of AAEM *are* members of the American Board of Medical Specialties.

From the AAEM website (http://www.aaemonline.org/):

> "AAEM physicians have earned a recognized MD or DO degree by an accredited medical school in the United States, Canada or other countries and maintain current licensure to practice medicine. Most AAEM physician members are board certified by one or more of the 24 medical specialty boards of the American Board of Medical Specialties."

Also from the AAEM website:

> "The mission of the American Academy of Environmental Medicine is to promote optimal health through prevention, and safe and effective treatment of the causes of illness by supporting physicians and other professionals in serving the public through education about the interaction between humans and their environment."

Isn't that what the Office of Environmental Health at ADHS should be doing instead of kissing off an organization that really *does* do that?

The AAEM is:

> **The Academy of Firsts:** The founders and members of the American Academy of Environmental Medicine are recognized as the first to describe or the first organization to acknowledge ...

- Serial Dilution Endpoint Titration
- Sublingual Immunotherapy
- Optimal Dose Immunotherapy
- Food Allergy/Addiction
- Provocation/Neutralization
- Avoidance/Reintroduction Challenge Testing
- Rotary Diversified Diet
- Chemical Sensitivity (MCS)
- Total Load Phenomenon
- Environmental Control in the Home, Workplace, and Hospital
- Chemically Less-Contaminated Foods
- Sauna Depuration
- Hepatic Detoxication Enhancement
- Gulf War Syndrome
- Endocrine Mimicry Disorders

- The Role of Mold in the Development of Systemic Illness
- Yeast Syndrome
- CFID/FMS

But never mind all that. Never mind that these are board certified doctors who have made studying the effect of environment on health a priority. Never mind that most of them as individuals are certified by the American Board of Medical Specialties. If their organization as a whole is not part of that certain trade group then forget it, ADHS will not even consider them. What arrogance!

Another article ADHS reviewed in Appendix B is "Update and Review of Research on Radiofrequencies: Implications for a Prudent Avoidance Policy in Toronto" by Loren Vanderlinden (*not* Vanderlin as reported by ADHS) for the Environmental Protection Office at Toronto Public Health (TPH). (http://www.healthyenvironmentforkids.ca/sites/healthyenvironmentforkids.ca/files/cpche-resources/TPH_RFtechnical_report.pdf)

As usual, ADHS summarized the main points of the article by lifting various quotes. It is very telling that ADHS shortened one of the sentences they quoted. The bit about microwave sickness was removed from this sentence:

> "Research in populations near cell phone base stations in Europe indicates that some people living within about 300 metres of a base station are more likely to experience symptoms, such as headache, memory changes, dizziness, tremors, depression and sleep disturbance, that are similar to a condition known as "microwave sickness"."

In the ADHS version of the above quote, the last part of the sentence – "that are similar to a condition known as "microwave sickness" – has been removed.

God forbid a condition known as microwave sickness should be allowed to percolate in the brain of anyone reading the ADHS study. They might actually look it up and find that, in addition to thousands of articles and references to it, Merriam-Webster's medical dictionary defines it as:

> "a condition of impaired health reported especially in the Russian medical literature that is characterized by headaches, anxiety, sleep disturbances, fatigue, and difficulty in concentrating and by changes in the cardiovascular and central nervous systems and that is held to be caused by prolonged exposure to low-intensity microwave radiation."

People might actually begin to wonder why there was no in-depth discussion of that condition in the ADHS study, or even any mention of it. Worse, they might even recognize some of the symptoms as their own and realize what the heck has been degrading their health and then demand something be done about it. Oh wait, we did that, and that's why this ADHS study was concocted – I mean, conducted – in the first place!

ADHS also left this TPH statement out of their summarized main points: "There is agreement that biological (i.e. non-thermal) effects from radiofrequencies are evident from research with animals, cell cultures and in humans."

I would say that's important enough to include as a key point in a study about the health effects

of "smart" meters, wouldn't you?

Here is ADHS' incredibly dishonest response to the TPH report:

> "Although this article infers the biological feasibility of RF exposure and nonthermal effects, this article does not directly relate to the goals of this review. ADHS focused on RF exposures in the home. RF exposure at or near cell towers tend to be at much higher power densities than that which are measured near electronic meters, and is therefore not within the scope of this report."

Say what? The article "infers biological feasibility of … nonthermal effects"?

The article did not "infer" anything. It was clear. The author came right out and said it: **"There is agreement that biological (i.e. non-thermal) effects from radiofrequencies are evident from research with animals, cell cultures and in humans."**

Shame on ADHS for attempting to deceive Arizonans with that blatant misrepresentation.

And did you note the beautiful irony? ADHS says, "... this article does not directly relate to the goals of this review." Ha! Of course the article doesn't if it claims that "biological (i.e. non-thermal) effects from radiofrequencies are evident."

That should make anyone wonder what the real goals of the ADHS study are. It looks to me like ADHS tipped their hand, and that the real goals of their study were to whitewash microwave sickness and provide liability cover to the Arizona Corporation Commission and the monopoly utilities.

More irony: if "RF exposure at or near cell towers tend to be at much higher power densities than that which are measured near electronic meters", then would it not make sense to be concerned about additional sources of microwaves being added to those areas near cell towers? Shouldn't that be "within the scope of this report"? Instead, ADHS just blew the whole thing off.

And speaking of blowing things off, I was almost left speechless at how ADHS blew off the third and final report in their "Submissions from the Community" section. ADHS is either incredibly stupid or incredibly corrupt to have dismissed this report for the reason they gave.

Dr. Andrew Goldsworthy's "The Biological Effects of Weak Electromagnetic Fields Problems and solutions" is a masterpiece and must reading for anyone with an interest in this subject. (http://www.cellphonetaskforce.org/wp-content/uploads/2012/04/Biol-Effects-EMFs-2012-NZ2.pdf)

Goldsworthy "... is a retired lecturer from Imperial College London, which is among the top three UK universities after Oxford and Cambridge and is renowned for its expertise in electrical engineering and health matters. Dr Goldsworthy spent many years studying calcium metabolism in living cells and also how cells, tissues and organisms are affected by electrical and electromagnetic fields." [from the study's Foreword]

For anyone – anyone except ADHS, that is – who reads Goldsworthy's report, it will be obvious that the report is about how microwaves affect people at the cellular level. Goldsworthy explains how

that is done; he explains the mechanism of harm. All sorts of microwave sources are discussed – cell phones and towers, WiFi, DECT phones, and "smart" meters.

In the course of his report, Goldsworthy mentions frequencies between 6 and 600 hertz twice. He never calls that frequency range "radiofrequency" or "RF" – because it isn't. It's clear that ADHS does not understand frequency modulation or inter-cellular communication and so did not understand Goldsworthy's report at all. In short, Goldsworthy's report is way, way over their heads. In another one of their mistaken "gotcha" moments, ADHS seized on something they did not understand and mistakenly used that to dismiss Goldsworthy's report altogether.

Here is how ADHS dismissed Goldsworthy's 29 page report:

> "ADHS Response: This article references RF between 6 Hz and 600 Hz. However, the range of RF is actually 3KHZ to 3GHz. EMF in the range of 6 Hz and 600 Hz is actually Extremely Low Frequency (1-300Hz) and Intermediate Frequency (IF) Fields (300 Hz - 10 MHz). This review focused on RF and did not research the potential health effects of ELF or IF."

Poor ADHS had no idea what they were doing. Modulation of the carrier wave by other frequencies is needed for data communication. That's how this stuff works!

I contacted Dr. Goldsworthy and asked for his take on the ADHS response. Below is his reply in full:

> Dear Warren
>
> Thank you for your email.
>
> I have checked Page 22 of my article and it appears that ADHS have completely misunderstood it. The ELF frequencies that I referred to are not the actual microwave frequencies emitted by the device. They are instead the frequencies with which the microwaves are modulated; i.e. the frequencies of the pulses that carry the information.
>
> They are damaging because the cell membrane can demodulate the signals so that the harmful ELF frequencies are extracted (in principle, it is like the way in which radio set demodulates radio-frequencies to give the audio frequencies that you hear from the loudspeaker). I have explained a mechanism by which this can happen in the Section on demodulation on Page 19).
>
> However, whatever the mechanism, there are ways to overcome most of the biological effects of the modulation, either by burying them in low frequency random noise or by using a "balanced signal" in which the effect of the modulation is cancelled out by transmitting a signal that is pulsed 180 degrees out of phase on a second microwave carrier. As far as the phone company is concerned, its like two separate phone calls because they are on different microwave frequencies. but as far as the body is concerned, the modulation frequencies are added together and because they are of opposing polarities, they cancel each other out.

Of course, smart meters are likely to be more damaging than cell phones because they are transmitting their pulses 24/7.

I hope this helps.

Best Wishes.

Andrew

In addition to completely misunderstanding studies, misrepresenting them and dismissing them out of hand, another aspect of the "Submissions from the Community" portion of the ADHS study – and one of its major failings – was ADHS's treatment of individuals who reported health damage from "smart" meters.

Rather than thoroughly investigate and test these individuals, ADHS simply listed their health complaints and dutifully tabulated and quantified them. One table may be found in the "Submissions from the Community" portion, and the complete table is in the corresponding Appendix A.

ADHS did not contact any of the "smart" meter victims. The list of "smart" meter victims came only from those who had complained at the ACC docket. There was no statewide publicity of the ADHS study so that other "smart" meter victims could tell their story. There was no 800 number for anyone to call. There were no health surveys. No communities were surveyed with simple symptom related questions. No blood work done along the lines of what Dr. Klinghardt is doing in Seattle where he has isolated specific inflammatory markers in people's blood who are exposed to "smart" meter radiation. (Go to the 29:30 mark in this YouTube video of Dr. Klinghardt for the information ADHS missed: https://www.youtube.com/watch?v=b_wxM6IAF1I)

ADHS could have looked at the state's death rate since "smart" meters have been installed. One does not have to be an epidemiologist to notice a large increase since "smart" meters have been installed. I know for a fact that neurologists in Flagstaff and Cottonwood are overloaded. In Flagstaff it is so bad that only the worst cases get an appointment. Why are these things happening? What has changed? ADHS never asked so ADHS will never know.

In short, a health study that only examines the health of the meters and not the health of the people is worthless.

Field Study Follies – more incompetence

Questions of accuracy arise in the "Field Study" part of the ADHS study.

It is hard to believe that the Arizona Radiation Regulatory Agency (ARRA), who measured "smart" meter microwave emissions for the ADHS study, got accurate readings.

ARRA was measuring at one foot away from AMI ("smart") meters and the highest reading they got was 1450 microwatts per meter squared? (Watts per meter squared is the unit of measurement ARRA used. I use microwatts per meter squared so I will be converting the ARRA measurements by

multiplying by 1,000,000).

Despite the fact that I usually do not measure "smart" meters at that close a distance, still I get readings much higher than what ARRA measured. So since signal strength drops with distance, the ARRA measurements make no sense.

See my YouTube videos **APS Caught Lying** and **APS Caught Lying Again** for examples of my "smart" meter measurements.

It may be that ARRA did not measure enough "smart" meters. 17 "smart" meters is a very small sample.

I *have* found a few "smart" meters that are very weak (despite the APS claim that they all transmit at the same strength). Nevertheless, it still seems doubtful that out of 17 meters the strongest signal would be only 1450 microwatts per meter squared at as little as one foot away.

A more likely explanation is that the Tenmars TM-195 measuring device that ARRA used is cheap and inaccurate. My friends and I who have more expensive, accurate and sophisticated measuring equipment laughed when we saw that ARRA was using a $135 device. For comparison, the Gigahertz Solutions HF35C that you can see me using in my videos was almost $500 (with attenuator). Friends of mine have equipment in the thousands of dollars.

The Tenmars antenna is omnidirectional. A device with a directional antenna would have been more appropriate and accurate for measuring "smart" meters.

Put more technically by Richard Tell in one of the Vermont studies that ADHS promoted and claimed to have actually used in establishing their "field sampling plan":

> "Measurement data can be distorted when using an isotropic probe to measure steep spatial gradients close to a radiating element of a smart meter."

Based on that Tell comment that ADHS supposedly read, and based on the following features listed in the Tenmars owner's manual, the Tenmars is therefore an incorrect device to use for measuring "smart" meters:

- For isotropic measurements of electromagnetic fields.
- Non-directional (isotropic) measurement with three- channel measurement sensor.

In short, the HF35C with directional antenna that I use is a correct device for measuring "smart" meters. The Tenmars that ARRA used is not.

Additionally, the Tenmars makes no sound so the user cannot really be sure what they are measuring. My HF35C makes different sounds for different sources of microwave. There's no guessing.

One of the measuring professionals in Arizona wrote me that, "The Tenmars TM-195 RF meter is only accurate on continuous RF emissions. It performs poorly on pulsed radiation emissions. …. I

consider all RF testing in this report to be inaccurate and therefore invalid. It shows incompetence by the people involved with the report."

Having used a Tenmars TM-195 myself, I disagree with him. The Tenmars TM-195 is never accurate.

At best, the Tenmars is an amateur grade device suited for a homeowner on a budget who wants general readings around the house. It is *not* suitable for a serious study. In a cynical sense, the Tenmars was the perfect choice for the ADHS study – a pitifully inadequate meter for a pitifully inadequate study.

Call a couple of the listed companies that measure professionally in Arizona. I have. They want around $2,000 per day. They aren't using a Tenmars TM-195.

In addition to using an improper device, ARRA measured at an improper distance. Because the emitted wavelength of a "smart" meter is longer than 1 foot, it is best to measure at a greater distance than one foot.

Of course even if ARRA got measurements equal to mine, those measurements would still be under the FCC guidelines. That was never the issue anyway since the antiquated and dangerously inadequate FCC "guidelines" are part and parcel of the entire "smart" meter health problem.

Indeed, much of the "Field Study" section of the ADHS study, because it is centered around those guidelines, exposes how ridiculous those guidelines are. For example, in discussing how compliance with the FCC was met, ADHS wrote, "The 30-minute averages were calculated by using the top six 5-minute averages from a sampling location. This approach provided an estimation of the possible maximum 30-minute exposure throughout a day."

But a day is 24 hours, not 30 minutes. ADHS does not understand chronic exposure, nor does the FCC.

ADHS explains that, "FCC, ICNIRP and IEEE guideline values was [sic] determined based on established adverse thermal health effects. The purpose of these guidelines are to prevent whole-body heat stress and excessive localized tissue heating." ADHS then goes to show that their 30 minute averages of "smart" meter emissions are well below those values.

Even though they listed all the symptoms of "smart" meter victims, it obviously never occurred to ADHS that "smart" meter victims never complained about "whole-body heat stress" or "excessive localized tissue heating."

ADHS wrote, "FCC does not have an established standard for non-thermal health effects because of insufficient information." Actually industry lobbying, military influence, corruption and regulatory capture are the real reasons. "Insufficient information" has nothing to do with it. For how it all began, read the book, *The Zapping of America*. And incidentally, the current chairman of the FCC, Tom Wheeler, was a career lobbyist for the cable and wireless industry, so don't look for the FCC to find "sufficient" information any time soon.

ADHS then launches into the usual series of wiggle words to explain why we shouldn't worry about "smart" meter radiation:

> " Our review of US and most internal government assessments, and scientific publications indicated that there is no consistent or convincing evidence to support a cause-and-effect relationship related to the exposure to the RF frequency (900 - 930 MHz) used by the smart meters."

No "consistent" evidence? **—> So there is in fact evidence.**

No "convincing" evidence? **—> Convincing to whom?**

ADHS:

> "The majority of the scientific studies concentrated on the possible health effects from mobile phone exposure. When compared to mobile phones, smart meters represent lower RF exposure sources because of the attenuation factor of the building structure (for example: walls), and the distance from radiation signal source (i.e. location of the smart meters and mobile phones in relation to the human body.)"

Once again, ADHS displays their lack of understanding of chronic exposure. "Smart" meters *do not* represent lower RF exposure sources than cell phones. "Smart" meter emissions are 24/7. Cell phone use is intermittent and voluntary.

In an incredible admission of incompetence, ADHS stated, "We do not have access and do not have the ability to review the original paper (in Russian). The source indicated that this value was set based on an animal study consisting of 110 rats exposed to 900 and 1,800 MHz at 5 and 20 W/m2."

What "source"? None is mentioned or footnoted. ADHS does not have "the original paper" but even if they did they couldn't read it because it's in Russian? Honestly, that is just shamelessly sloppy. Ever hear of a translator, ADHS? You don't even need to pay a human being to do it. Here's some free software: http://translation.babylon.com/russian/to-english/

ADHS stated: "ADHS used the Russian standard as a comparison to ARRA's measurements. The results showed that none of the overall average readings of AMI (ranging from 0.000025 to 0.000888 W/m2) or AMR (ranged from 0.000016 to 0.000377 W/m2) meters exceeded the standard (Table 6.)"

The more accurate "smart" meter measurements that I have taken *do* in fact exceed the Russian standard.

In their brief discussion of "smart" meters that do not transmit via microwaves but transmit over existing power lines – Power Line Communication (PLC) – ADHS manages to get that wrong once again. ADHS says, "During the data transmission process, a power frequency field of 60 Hz is produced." Uh, no, 60 hertz is always present on line. Always. PLC does not produce the 60 hertz field.

For more information about power line frequency, ADHS directs us to a publication prepared by the National Institute of Environmental Health Sciences called "EMF: Electric and Magnetic Fields

Associated with the Use of Electric Power." Had ADHS actually been able to comprehend this very simplistic document, they would have learned on page 6 that "Electricity in North America alternates through 60 cycles per second, or 60 Hz." PLC is *not* what's causing that. (http://www.niehs.nih.gov/health/materials/electric_and_magnetic_fields_associated_with_the_use_of_electric_power_questions_and_answers_english_508.pdf#search=Electric and Magnetic Fields Associated with the Use of Electric Power)

Conclusion – "smart" meters are not found safe

So after all the blatant blunders and bias, the reliance on flawed and corrupt institutions and studies, after all ADHS' inability to understand the basics, after all the wiggle words, seemingly deliberate misrepresentations, obvious omissions and data cherry picking, ADHS announced to Arizona that "***Exposure to electric meters (AMI and AMR) is not likely to harm the health of the public.***"

How can anyone believe them? And even if anyone did, what kind of assurance is "not likely to harm"?

Did we ever hear that about analog meters, that they are "not likely to harm"? No, we didn't.

Note the state statutes:

- **A.R.S. 40-361.B** – Every public service corporation shall furnish and maintain such service, equipment and facilities as will promote the safety, health, comfort and convenience of its patrons, employees and the public, and as will be in all respects adequate, efficient and reasonable.

- **A.R.S. 40-321.A** – When the commission finds that the equipment, appliances, facilities or service of any public service corporation, or the methods of manufacture, distribution, transmission, storage or supply employed by it, are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine what is just, reasonable, safe, proper, adequate or sufficient, and shall enforce its determination by order or regulation.

In particular, note that A.R.S. 40-321.A *does not* say "the commission shall determine what is just, reasonable, likely not to harm, proper, ..."

"Not likely to harm" *does not* equal safe. Safe is safe. "Not likely to harm" is a gamble, gambling with the health of the public, conducting an experiment on the public.

According to Merriam-Webster's dictionary safe means:

1. not exposed to the threat of loss or injury
2. providing safety
3. unlikely to provoke controversy or offense
4. having or showing a close attentiveness to avoiding danger or trouble

5. not causing or being capable of causing injury or hurt
6. worthy of one's trust

"Not likely to harm" does not fall within the definition of safe.

Note especially definition # 1. It *does not* say "not *likely* exposed to the threat of loss or injury."

Note especially definition # 2. It *does not* say "*likely* providing safety."

Note especially definition # 5. It *does not* say "not *likely* causing or being capable of causing injury or hurt."

Safe is not a wiggle word. No one should attempt to redefine it.

As slipshod as the ADHS study is, their "Not likely to harm" classification places wireless "smart" meters, the utilities who use them, and the Arizona Corporation Commission (ACC) who sanctions them, outside of the law.

"Smart" meters have not been found safe and must be removed. Now!

Wiggle your way out of that, ACC.