

ACC Lawsuits Update
Information & Perspective by Warren Woodward
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Stacey Champion's case against the APS rate increase is moving along slowly at the Arizona Corporation Commission (ACC). There was a procedural hearing last week. The administrative law judge handling the case – [the one who admitted not knowing what she's doing](#) – said she would schedule a hearing sometime probably in September (!) to determine if a rehearing was warranted. Meanwhile many APS customers are paying way more than the average 4.5% increase that was all the rate increase was supposed to be – and summer is on its way.

Because I signed Champion's petition for a rate case rehearing, I am a party to the case but I have not been that active in it since I have my own lawsuits going against the ACC.

Champion has hired a lawyer to represent her and the petition signers. Lawyers cost money. Champion is not independently wealthy or able to be her own lawyer. Donations to help Champion fund her lawyer can be made here: https://www.fundedjustice.com/StopTheAPSGreed?ref=ab_5oYcK1c7o5oYcK1c7o

Last week I filed briefs in the two different lawsuits I have against the ACC.

In the public records case, the Superior Court still has to decide if the ACC hid records from me and what to do about it. The new judge in that case asked for the ACC and I to provide him with summaries of our positions on that issue. So I reiterated and showed that the ACC hid at least 4 documents from me that I know of. I also suggested several ideas for the ACC's punishment and my “relief.” Below is my favorite.

Plaintiff would like a formal apology from Defendant in which Defendant takes full responsibility for its actions. In other words, *not* an apology that says “We're sorry you felt wronged,” but one that says, “We're sorry we wronged you.” Suggested wording: “Warren, the Arizona Corporation Commission is sorry that it jerked you around in your public records request, and that it stonewalled you. Please accept our apology. We will endeavor to never do this again to anyone.” By Order of this Court, Defendant will pay to have the apology framed, and then hung permanently and prominently in the ACC's Legal Division. Ultraviolet protective glass is to be used in the framing so that the apology never fades away and serves as a permanent reminder to Defendant. The Court's Order will share the same frame. Plaintiff is not being facetious in this particular relief request; he sincerely believes Defendant (and the public) would benefit from this permanent reminder.

My 194 page Opening Brief appealing the entire ACC “smart” meter decision, as well as appealing the ACC decision allowing APS to discriminate against new customers, was filed at the Court of Appeals last week also. The Brief is best explained and summarized by the Opening Brief itself. The Statement of Facts section is reproduced below. Three different Decisions are mentioned. 76295 is the recent APS rate case decision, less “smart” meter issues. 76374 is the rate case “smart” meter decision. 75047 is a 2015 “smart” meter decision that required APS to provide certain info regarding “smart” meters that APS never did and the ACC never enforced.

The parties in this case are in dispute because the ACC lacks the constitutional authority to deny a rate plan to some residential customers while other residential customers enjoy it. § V.c.ii.10 of Decision # 76295 (Tab A, 1106, p. 53) provides for a mandatory “90-day trial period” for new APS residential customers as well as for disallowing the R-Basic Large rate after a certain date to some residential customers while other residential customers still get to use the rate. Thus the ACC has facilitated APS in a violation of A.R.S. § 40-334.A which prohibits the very discrimination in which APS is engaged via § V.c.ii.10 of Decision # 76295. Denying rate plans to some residential customers while other residential customers enjoy them is obvious illegal discrimination.

The parties in this case are also in dispute because ACC Decision # 76374 has multiple fatal flaws. ACC Decision # 76374's Resolution and Findings of Fact do not support its conclusions. Reference is made throughout ACC Decision # 76374's “Determinations” to “the evidence” and “the record,” yet no specific competent evidence in support of the ACC Decision # 76374's conclusions is ever cited. Additionally, ACC Decision # 76374 does not substantiate with any sufficient, competent evidence that ACC Decision # 75047 was properly executed during the rate case. In actual fact, ACC Decision # 75047 was *not* properly executed.

ACC Decision # 76374 falsely claims to set forth “the positions of the parties who briefed the non-AMI meter issues in this proceeding” (Tab A, 1116, 7:7). Some of Appellant's positions are neither mentioned nor dealt with in the Decision. Chief among those ignored positions – and in what looks every bit like an attempted cover up – is the accounting fraud Appellant brought to light during the rate case proceeding.

There is also ample, conclusive evidence of judicial bias during the rate case proceeding in favor of APS and the ACC Staff (“Staff”) who supported APS by virtue of being signatories to the rate case Settlement Agreement. What's more, there is ample, conclusive evidence of judicial prejudice against Appellant during the proceeding. The administrative law judge (“ALJ”) who presided over this rate case and who wrote Decision # 76374, Teena Jibilian (“Jibilian”), was neither objective nor impartial, and deprived Appellant of due process. ACC Decision # 76374's Resolution, Findings of Fact, Conclusions of Law, and its Order, reflect that bias and prejudice.

By enacting ACC Decision # 76374, Appellee has condoned not just the previously mentioned bias and prejudice, but also multiple lies and dishonesty perpetrated by APS and Staff. ACC Decision # 76374 is not based on evidence but upon lies, dishonesty bias and prejudice.

The ACC and APS get forty days to answer. Then I get twenty-five days to reply. Then a panel of three judges decides. It will take months.

In this case I am up against eight lawyers, four from the ACC and four from APS. I am amused they need eight lawyers to take on one college drop-out. No offense to any lawyers reading this, but that doesn't speak very well of law school. I'm glad I never went.