

**APS Rate Case Update -- Judge Issues ROO -- "Smart" Meter Issues Postponed
Information & Perspective by Warren Woodward
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Last Wednesday the Administrative Law Judge (ALJ) assigned to the APS rate case issued her Recommended Opinion & Order (ROO).

The ROO is how she thinks the Arizona Corporation Commission (ACC) commissioners should rule on the rate case. Hence it is written in the form of an Order that, if the commissioners agree with, they can just sign after they vote for it in an upcoming Open Meeting (no date for that yet).

The ROO is the result of her supposedly weighing the evidence and arguments in the case presented both in writing and at the hearings by all the parties involved. I say "supposedly weighing" because she does not work for the people; she works for the ACC, the supposed regulators of APS. I say "supposed regulators" because, having been involved with the ACC since 2011, it's quite obvious the commissioners (and ACC staff) are biased in favor of APS. So others and I suspect the ALJ tells her employers, the ACC commissioners, what they want to hear. In this case, APS is getting what it wanted (especially given the distinct possibility that APS asked for twice as much so they could settle for half). Those of us rate case Intervenors who argued against the so-called Settlement Agreement and its various provisions did not win on any major points despite providing plenty of evidence.

One highly unusual provision of the ROO is that the rate case "smart" meter issues have been "bifurcated" out of the ROO, to be decided in a "forthcoming decision" separate from the rest of the rate case issues. No date was given for the "forthcoming decision." No ROO regarding specific "smart" meter issues has been issued.

ACC veterans I have spoken with have never heard of such a thing in a rate case. So once again, the ACC has invented something new in order to deal with me. I have a case awaiting decision in the Court of Appeals because the ACC invented a redaction classification just for me in a public records request I made of the ACC a couple years ago. Whole pages were redacted for "State of Mind." "State of Mind" redaction is not legal in Arizona. It exists only in the "extra-legal" fantasy world that the ACC seems to inhabit. (Briefly, my case is in the Court of Appeals because, among the Superior Court judge's many mistakes, he ruled I could have the unredacted documents but that I had to ask him for permission to share them. Such an action is known as "[prior restraint](#)" of freedom of speech and is a *major* violation of freedom of speech. Because it would have been prior restraint, the U.S. government could not even stop publication of the [Pentagon Papers](#) back in the 1970s; that's how important it is.)

Anyway, after some thought on the ALJ's "bifurcation," here's what I think the reason for it is: 2 years ago when I won my appeal of "smart" meter refusal fees that the ACC had imposed, I never knew what my winning argument was because the commissioners went into executive session for an hour to make their decision. When they came out of executive session, they said they really didn't want to but they needed to rescind their decision. No reasons why were given. But something really got to them because they were stammering, and at first even had to be encouraged to speak by Susan Smith, the Chair at that time. It was like they were hit between the eyes.

That said, of all the arguments I gave in my appeal, I think this is the one that did it: In the decision they kept saying they had "fully considered" the matter. In my appeal I provided page after

page of things that were brought to their attention that they simply ignored. So, assuming that was the winning argument, the ALJ's "bifurcation" of "smart" meter issues in this case could serve to "prove" that the commissioners really did fully consider everything this time, after all they had a whole separate meeting over it. So this could be the ALJ's C.Y.A. strategy to protect the establishment which, after all, seems to be almost all judges' real job.

Time will tell.

PS - On another note, earlier this month I got a call from a couple in Navopache Electric Coop territory. Their house had just burned to the ground five days after Navopache installed a Landis & Gyr "smart" meter. They said the fire started at the meter and engulfed the house in no time flat. They were lucky they were awake when it happened and were able to escape with their lives. Evidently Navopache is denying responsibility and blaming it on their wiring. Making matters worse, the fire department bulldozed the evidence.