

**Judicial Bias in APS Rate Increase Complaint
Information & Perspective by Warren Woodward
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As many of you know, last January after getting the requisite number of signatures on a petition for rehearing, APS customer Stacey Champion requested that the Arizona Corporation Commission (ACC) rehear the APS rate increase because many residential customers were getting bills with a much greater increase than the average 4.54% increase that was all the rate increase was supposed to be. I intervened in the complaint which means I am a legal participant, a "party," in the case.

Tomorrow I will file written testimony in that case. Using APS's own numbers, I show that over 100,000 residential customers are experiencing bill increases of triple 4.54% -- *or more*. "Or more" can mean bill increases as high as 33% more! There is no way that sort of inequity fits the legal description of "just and reasonable rates."

I also show what I perceive as blatant judicial bias and possible political manipulation in favor of APS/ACC. Below are the details as written in my testimony, which in this instance follows a question/answer format.

Q.5 – Has judicial bias tainted this case?

A.5 – It seems so. Here is what the case record shows has happened thus far. On January 3, 2018, and under A.R.S. § 40-246, Complainant Stacey Champion ("Champion") requested a rehearing of the APS rate increase provided for in ACC Decision 76295 ("76295") because customers had APS bills far in excess of the "average 4.54% increase" that the rate increase was supposed to be. The Administrative Law Judge assigned to the case, who publicly admitted not knowing how to proceed in this case (*n.b.* <http://docket.images.azcc.gov/0000185988.pdf>), Jane Rodda ("ALJ"), set May 11, 2018, as the filing deadline for any party wishing to intervene in the case. On June 21, 2018, *over one month* after that filing deadline and *over six months* after Champion filed her complaint, ACC chairman Tom Forese ("Forese") – who voted in favor of the APS rate increase which is the subject of Champion's complaint, and who was elected commissioner with the help of millions of APS/Pinnacle West dollars spent towards his election, and who ultimately is one of the bosses of both ACC Staff ("Staff") and the ALJ – requested Staff to participate in the case. Staff was a signatory to the Settlement Agreement that is the basis of the rate increase in question. Section 40.6 of that Settlement Agreement states unequivocally: "The Signing Parties shall support and defend this Agreement before the Commission." and "... the Signing Parties will support and defend the Commission's order before any court or regulatory agency in which it may be at issue." Worse, at a July 25, 2018 hearing, the Complainant and the two Intervenor in the case, Woodward and Mr. Gayer, all pointed out to the ALJ that, 1) the deadline for intervention had passed, and 2) Staff cannot be impartial because of their legal obligation under Section 40.6 of the Settlement Agreement. Remarkably, and showing her pro-Staff/Forese bias which is ultimately a pro-APS bias, the ALJ did not even acknowledge much less address the arguments provided by the Complainant and

Intervenors. The ALJ said simply, “I, um, always welcome Staff’s participation in any matter because of their expertise.” *Always?* Even when Staff has missed the deadline to intervene by a month, are contractually committed to defending the rate increase at issue, and are disrupting the case schedule? That sort of “welcome” defines favoritism and bias.

So there would seem to be two deadlines at play in this case, one for Forese and Staff who don't have one, and one for everyone else. Additionally, any “expertise” Staff may have does not change the fact that Staff is legally obligated to “support and defend” the rate increase in question and so are not a neutral, impartial party. Besides, in presenting its case, APS can well afford its own “expertise.” As well, if Staff truly had “expertise” then Staff would have never signed off on a rate increase that, by APS's own numbers, is so inequitable.

So, objectively, what has occurred is this: The man, Forese, who voted for the rate increase (and who therefore, as a candidate for reelection to the ACC, has an incentive to delay this issue until after the upcoming election) has asked the people in his employ, Staff, who are legally obligated to defend that rate increase, to intervene post-deadline in a complaint against that rate increase, and they have been given permission for same by another one of Forese's employees, the ALJ. In short, this perversion of due process appears to be a thinly veiled attempt to stack the deck against the Complainant in order to shore up an unjust rate increase, and to delay any resolution until after the upcoming November election.

As usual, I am representing myself in this case, no lawyer. As a working single mom, Stacey is unable to do that and so has hired a lawyer to represent her and everyone who signed her petition, and also everyone who is sick of APS/ACC ripping us all off. Donations to her legal fund can be made here: https://www.fundedjustice.com/StopTheAPSGreed?ref=ab_1VkyxcCFkK1VkyxcCFkK