

**Arizona Supreme Court Denies Review of ACC “Smart” Meter Decision
Information & Perspective by Warren Woodward
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Yesterday I received notice that the Arizona Supreme Court denied my Petition for Review of the Arizona Corporation Commission's (ACC) “smart” meter decision made in the last APS rate case. Among other things, that “smart” meter decision allows APS to charge customers who refuse “smart” meters an extortion fee, and it completely disallows solar and commercial customers to refuse a “smart” meter when in the past they always could.

My Petition for Review also challenged the inherent discrimination of two other aspects of the APS rate case. One was the so-called “90-day trial period” whereby new APS customers cannot take the regular R-Basic rate for 90 days but instead have to be on a Demand or Time Of Use rate. Another was the so-called “grandfathering” of APS's R-Basic Large rate, which is no longer available to customers even though some customers are still on it.

Regarding the 90-day trial period, the Court of Appeals (from which I was appealing to the AZ Supremes) was so dumb that the Court of Appeals actually ruled the 90-day trial was not discriminatory because new customers could choose from among all the available plans. Except they can't! If new customers could chose from all the rate plans then there wouldn't be a 90-day trial period. That's the kind of sheer idiocy the Arizona Supreme Court has endorsed by letting the Court of Appeals' decision stand.

Numerous lawyers who specialize in utility law had told me the 90-day period was blatant discrimination, so my argument was not that of some ignorant layman. But I was not surprised the AZ Supremes blew me off. They are an extremely lazy lot who only hear 3.5% of the civil cases brought before them. Long time readers may recall when they blew off my case against ACC commissioner Bob Burns. While a commissioner, Burns was a registered lobbyist for companies regulated by ACC. That's completely illegal (and I had caught Burns and his pals telling about 5 different stories in their lame attempt to create an excuse). But the AZ Supremes didn't care that Burns broke the law. They refused to hear my case then too.

I could go on and on about all the things wrong with the Court of Appeals decision that the AZ Supremes have let stand – the purposely ignored evidence, the straw man arguments, the case citation that the Court of Appeals misquoted and doctored in order to create support for its result oriented decision, etc. But what's truly incredible is that the ACC had stipulated in a decision made prior to the APS rate case that a cost/benefit analysis of “smart” meters was to be provided in the APS rate case, however that stipulation was never complied with by APS despite me harping on it throughout the rate case. Without a cost/benefit there was no way for the ACC to know if customers who refuse “smart” meters really do cost APS more money to serve. Without a cost/benefit the extra fees charged to those customers are baseless and unjustified.

In actual fact, the whole “smart” meter system *does* cost way more than the analog system. The scam is that APS gets a guaranteed rate of return on expenditures (10% in the last rate case!) so APS has an incentive to waste money, lots of money. Topping off the scam, most of APS's risk is removed by all the pass-through fees on your bill.

I hammered lack of compliance with the cost/benefit requirement at the Court of Appeals but the Court of Appeals excused the lack of compliance by saying it was up to the ACC to “interpret” ACC decisions any way that the ACC wanted – never mind that the decision's wording was totally clear and there was nothing to “interpret.” ACC decisions are law, so what the Court of Appeals *really* said was that laws don't matter – and, by refusing to hear my Petition for Review, the AZ Supremes agreed with that. Just like in the Burns case, laws don't matter at the Arizona Supreme Court.

It's worth noting here that literally carved in stone in huge letters on the side of the building that houses both the Court of Appeals and the Arizona Supreme Court is this: WHERE THE LAW ENDS, TYRANNY BEGINS. Perfect! Those courts are precisely where the law ends.

So my 8 year battle has come to a disappointing conclusion. At least I know I did the best I could. My filings were always reviewed by lawyers. In the financial part of my “smart” meter argument (in which among other things I found APS & ACC perpetrating accounting fraud) I was coached by a retired rate case CPA. So my point is, I know my work was top notch. Unfortunately, truth, law, logic and reason don't account for much any more, and especially not here in Arizona which in 2014 was rated by [Harvard's Center for Ethics](#) as *The Most* corrupt state in the nation.

Thank you very much to all who donated to my effort. Your support didn't just offset my expenses, it gave me the will to keep going when I wanted to quit in disgust. I couldn't let you down by quitting, which is what I really wanted to do more than once. Spending time at the ACC is like a trip to the sewer – which is actually not fair to the sewer because at least the sewer provides a good service and can't help what it is. By the way, I am still \$1,067 out of pocket on my expenses. If anyone wants to help with that it would be most appreciated. Donations of any amount are welcome and can be sent to me at 200 Sierra Road, Sedona, Arizona 86336. PayPal can be sent to wildmanwarren@hotmail.com .