

**A Victory in the Champion Complaint Against APS  
Information & Perspective by Warren Woodward  
Sedona, Arizona ~ May 28, 2019**

**"A Victory," But Not THE Victory**

Last week the Arizona Corporation Commission (ACC) held an Open Meeting to discuss and vote on Stacey Champion's Complaint against APS for having unjust and unreasonable rates. The rates set in the last APS rate case were supposed to have an average residential bill impact of 4.54%, but tens of thousands of ratepayers are experiencing much higher increases. I am an Intervenor in the Complaint, which means I am a party to the case.

The ACC meeting last week was specifically to discuss ACC commissioners' proposed amendments to the Recommended Opinion & Order (ROO) that the Administrative Law Judge (ALJ) had filed in the Complaint. The ALJ had recommended the Complaint be dismissed.

In a stunning rebuke to APS, the ALJ, and ACC Staff (who had also recommended dismissal), ACC commissioners voted 4 to 1 *against* adopting the ROO and thereby *against* dismissing the Complaint. Commissioner Justin Olson was the lone vote in favor of dismissal. It is worth noting that ACC chairman Bob Burns, who pretends to stand up to APS, admitted changing his vote from being in favor of dismissal to against dismissal only after seeing that in favor was not going to win. So totally lame!

The only commissioner solidly looking out for ratepayers is Sandra Kennedy. Each time the other commissioners proposed amendments that, at best, merely danced around the unjust and unreasonable APS rates, Kennedy would vote No, and succinctly explain that her vote was because the amendment did not lower customers' bills.

I titled this article "A Victory" because, while what happened is a victory, it's not *The* Victory.

Because this type of Complaint is so unusual, and because it is also unusual for the commissioners not to adopt a ROO, nobody really seems to know for sure what happens next. Most of us are guessing the commissioners will wait to see what happens with the rate review that's currently being conducted to determine if APS is over-earning. That review should be concluded next month. It is being conducted by an outside firm, not ACC Staff, so there is a chance it will be realistic and objective. If so, it *should* find that APS is, in fact, over-earning. That's what Champion's own expert in the complaint found after, among other things, analyzing over 10.5 million residential APS bills.

**Donate to the APS Rate Hike Rehearing Legal Defense Fund**

By the way, Champion, her expert witness and her lawyer have done a great job throughout this Complaint which has gone on for over a year. If you've not made a donation towards her legal fees, then please consider it since she is still coming up short. Any amount helps. Donate to the APS Rate Hike Rehearing Legal Defense Fund here: [https://www.fundedjustice.com/StopTheAPSGreed?ref=ab\\_0Rzi0uxciEc0Rzi0uxciEc](https://www.fundedjustice.com/StopTheAPSGreed?ref=ab_0Rzi0uxciEc0Rzi0uxciEc)

**ACC Chairman Burns Denies Woodward Due Process**

Last week's consideration of the Champion Complaint was not without incident. Unfortunately, Chairman Burns tried to deny me my Constitutional right to due process by denying me my right to speak on the proposed amendments to the ROO and, in so doing, to petition for redress of grievances, another Constitutional right.

After sitting through the Open Meeting all day last Tuesday, time spent on other Open Meeting agenda items pushed the Complaint into Wednesday's agenda, necessitating another trip to Phoenix for me. So when Burns tried to stop me from speaking, I was livid -- not just for being denied my rights but also for the prospect of having wasted a day a half waiting to speak plus two trips to Phoenix. Luckily, commissioner Olson interceded and told Burns he wanted to hear what I had to say. One second longer and I would have cussed out Burns before walking out. Interested readers can watch the dispute at the 2:57:00 mark here: [http://azcc.granicus.com/player/clip/3543?view\\_id=3](http://azcc.granicus.com/player/clip/3543?view_id=3)

My prepared remarks were very short but, given the unexpected vote, I think effective. Here's what I waited a day and a half to say:

All the proposed amendments are a pathetic attempt to make it seem like you are doing something but none of the amendments address the real issue that the Complainant and intervenors in this case have proved – and that is that the rates set in the last APS rate case are unjust and unreasonable.

Those rates cannot be fixed by any amount of customer education.

Proponents of the education amendments are, in effect, blaming the victims of those unjust and unreasonable rates, the tens of thousands of ratepayers who are being ripped off. Proponents are also, in effect, insulting the victims by the implied assumption that they are uneducated.

And then there's Andy Tobin's amendments which are reminiscent of billionaire Tom Steyer's recent opportunistic attempt to glom on to Stacey's complaint for his own purpose. So disgraceful!

With the exception of Sandra Kennedy, you Commissioners are completely out of touch with ratepayers, and you're dreaming if you think ratepayers will be fooled by your sidestepping and distracting amendments in this case. The wave of discontent that rose in the last election has been building ever since. Commissioners who want to get re-elected will surf that wave by rejecting the ROO and voting in favor of the Complainant. Commissioners that don't will get swept away.

So, in the end, the commissioners did reject the ROO, and with it all the hogwash, ineffectual amendments to the ROO that they had spent way too much time discussing, voting on and approving.

As I wrote above, we don't know what the future holds for this Complaint but right now at least the Complaint is still alive, not dismissed, and we are enjoying a victory.

Here is my letter admonishing Burns for denying me my rights. It was sent today to the ACC

docket and to the Complaint service list.

Chairman Burns:

Just because you are Arizona Corporation Commission (ACC) chairman does not mean you can deny people due process.

As an Intervenor in the Champion Complaint, I am a party to the case and have a right to speak.

At the May 22, 2019, ACC Open Meeting, until the intervention of commissioner Olson, you attempted to deny me the right to speak by incorrectly stating that, because I spoke at the previous month's Open Meeting, I could not speak. *WRONG!* How could I have addressed amendments to the ROO in April that were not introduced until May? The answer is of course I could not. As such, at the May 22 Open Meeting, I had just as much right to speak to those amendments as the other parties to the Champion Complaint who were allowed to speak.

Under the First Amendment of the U.S. Constitution I have a right “to petition the Government for a redress of grievances.” As well, Article 2, Section 5 of the Arizona State Constitution states that that right “shall never be abridged.” *Never!*, yet you, Chairman Burns, attempted to thwart my exercise of that right.

Chairman Burns, do not deny me my rights ever again.

Sincerely,

Warren Woodward