

CORPORATION COMMISSION RACE: SOLAR PROTOCOL, DARK MONEY, & A SHIFTY UTILITY

STORY BY
KENDALL PERKINSON

ILLUS BY
MATTHEW KOSCICA

With the future of Arizona's solar and utility rates at stake, the race to fill two seats on **Arizona's Corporation Commission** is turning out to be one of the most divisive in the state. The primaries have left Democrats **Sandra Kennedy & Jim Holway** facing down Republicans **Doug Little & Tom Forese** in an electoral battle strongly focused on solar energy. The issue has been a hot-button topic in the state since incentives for solar were drastically reduced in 2013, and this election may determine the direction of energy policies in the years to come.

Surrounding — and sometimes overshadowing — the campaign's debate over solar energy is a host of finger-pointing over campaign finance. The Democratic Party recently filed an official complaint against Messrs. Little & Forese with the **Arizona Citizens' Clean Election Commission**, claiming that improper finance reporting should result in their disqualification as candidates altogether. Meanwhile, "dark money" contributions to Messrs. Little & Forese from the company they would regulate on the Commission are raising eyebrows and generating renewed conversation about the place of money in Arizona politics.

Arizona Public Service (APS) is a publicly-regulated subsidiary of **Pinnacle West**, a privately-held energy company that owns a majority share of **Palo Verde Nuclear Power Plant**, which provides electricity for Northern Arizona and about two thirds of the Phoenix metro area. The Arizona Corporation Commission is a five-member regulatory board who oversees rates and policies for APS and other utility companies in the state. The commissioners are elected and serve 4-year terms.

Arizona is already a leader in the production of solar energy, second only to California in megawatt output. With about 300 sunny days every year, the state is on track to achieve the 1999 Commission-mandated goal of producing 15% of Arizona's electricity with solar by 2025. As of now, APS services about 17,000 rooftop solar customers.

Part of the reason solar has seen a boon is just the last five years has been that the Corporation Commission has previously encouraged financial incentives for households and businesses to install solar rooftop systems. And with companies like SolarOne, citizens now have the option to lease panels, making up-front costs minimal. In addition, "net-metering" policies have allowed excess electricity generated by solar panels to be sold back to APS — at wholesale energy rates — for a reduction in a customer's bill.

But just this past year, the Corporation Commission, under a new ideological trajectory from three members elected in 2012,

began rolling back these benefits, sparking a massive political battle that has continued into the current election cycle.

The battle became a war in late 2013, when APS submitted a proposal to the Corporation Commission that it either be permitted to charge solar users a \$50-\$100 fee every month, or that it be allowed to buy the excess net-metered energy from all solar producers at 4¢ per kilowatt hour — a fraction of APS' average retail rate to customers of 13¢ per kilowatt hour. Longtime home solar producers, solar contractors, and passionate citizens converged on the Commission's Headquarters in the Capitol Triangle of downtown Phoenix last November.

APS claimed solar producers were not paying enough for infrastructure, while citizens cried out that APS was "triple dipping" — using homeowner-financed solar installations as credit in its mandated 15% solar portfolio, buying energy from solar producers at below-wholesale energy rates, and then selling that energy back to all APS customers at retail rates — all with infrastructure mostly paid for during the Reagan years. And the fact that APS had reported \$381 million in operating profit — as a public utility — made one observer believe "the company's 1.1 million customers have been duped into overpaying at least \$300 in their annual electric bill!"

After two days of contentious hearings bearing witness to 716 public comments in three-minute durations (the vast majority of which were against APS' proposal), the Corporation Commission decided on a reported "compromise" — allowing net-metering incentives for homeowners to be slashed. While then-current home solar producers were "grandfathered," new home solar producers would have to pay APS to be on the grid, instead of receiving a wholesale rate adjustment on electricity generated from home installations.

The solar industry and environmental interests were outraged. Without being able to offer customers the considerable savings that net-metering had previously earned, converting households and commercial properties to solar would be a much harder sell. Advocates decried the move as an attempt by APS to cripple the industry. They pointed to studies like the one conducted by **Crossborder Energy**, which showed that net-metering had provided a considerable net gain to all APS users by providing an energy buffer, noting that every household using solar was one less dependent on nuclear and coal power, which require even more resource expenditures.

The Arizona Corporations Commission is scheduled to hold another full hearing on

electricity rates in 2015 that could continue its current course of incentive-slashing, or deviate dramatically — depending on this year's ballot count. Both Democrats and Republicans see the upcoming election as an opportunity to stock the board with commissioners sympathetic to either the interests of solar, or utility companies. With the future of Arizona's power grid at stake, neither is pulling any punches.

It is an oversimplification to identify the players in this saga with their party affiliation. In fact, much of the conflict throughout this election cycle has occurred within the Republican party itself.

The intrigue began when credentialed conservative Congressman **Barry Goldwater Jr.** became chair of the organization **Tell Utilities Solar Won't Be Killed (TUSK)** specifically to fight APS on the issue of incentives. In his view, protecting the solar industry is consistent with conservative principles.

"Republicans want the freedom to make the best choice and the competition to drive down rates. That choice may mean they save money, and with solar that is the case. Solar companies have a track record of aggressively reducing costs in America. We can't let solar energy — and all its advantages and benefits it provides us — be pushed aside by monopolies wanting to limit energy choice. That's not the conservative way and it's not the American way."

The plot thickened during the primaries this August when two Republican candidates for the nominations, **Vernon Parker & Lucy Mason**, began voicing complaints that APS was secretly funding their Republican rivals, Messrs. Little & Forese, through so-called "dark money" contributions. They claimed that money was being funneled through "Arizona 2014," a group openly campaigning for Messrs. Little & Forese. APS declined to either confirm or deny the claim, as Messrs. Little & Forese won the Republican primary, saying only that it "could no longer afford to sit elections out."

The implications of the accusation, for those who believe it, have more to do with ethics than legality. With *Citizen's United* having opened campaign coffers to corporate donations, no laws would be violated by such behavior. Another dark money nonprofit, the **Arizona Free Enterprise Club**, contributed a \$500,000 to Messrs. Little & Forese, unprecedented in Corporation Commission history. Nevertheless, many question whether a private, regulated monopoly like APS should be able to financially influence who sits on the board that regulates it.


Both Mr. Forese and APS itself are members of a group known as the **American Leg-**

islative Exchange Council, or ALEC. The organization gained some notoriety during the International Occupy encampments as models of a supposedly toxic convergence of money and politics. ALEC is essentially a forum where conservative corporate lobbyists and lawmakers write "model legislation" together, which is then introduced in various cities and states all over the country.

Last year ALEC exported the "Updating Net Metering Policies Resolution" to its more than 2,000 legislators, which recommended most of the recent cuts to solar incentives APS and the Corporation Commission have conducted. APS publicly left ALEC in April of 2012 (along with other members) when its practices were first widely criticized. A few months later, it quietly rejoined, and is now spearheading what appears to be a rollback of solar incentives all across the country.

The single-issue controversy surrounding the campaign, especially in the Republican camp, has left Democratic candidates Ms. Kennedy & Mr. Holway in a position to keep their message simple: Protect solar energy. "Let's make Arizona the new solar capital!" says Mr. Holway's campaign material, while Ms. Kennedy's campaign website, **sandraforsolar.com**, is even less ambiguous.

Ms. Kennedy was already elected to one term on the Corporations Commission in 2008, but narrowly lost reelection in 2012. She claims the attacks by the Commission on solar and other renewable energies is what has spurred her to run again, and is clearly making the issue her priority. Mr. Holway has spent the last four years as Maricopa County's elected representative to the **Central Arizona Project**, which diverts the Colorado River to Pima, Pinal and Maricopa counties, while simultaneously serving as director of the Western Lands & Communities Project.

In what could be a final twist to the story, it now appears possible that Ms. Kennedy & Mr. Holway could win the election by default. The Arizona Democratic Party has filed an official complaint with the Clean Elections Commission, claiming that both Messrs. Little & Forese violated campaign finance law by failing to properly report the money paid to companies for obtaining the signatures that got them on the ballot in the first place. If financial violations for either candidate end up totaling more than \$24,000, Arizona state law will require them to be removed from the race altogether. 

| Kendall Perkinson is solar savvy.
kromaticphoto@gmail.com