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AZ CORP COMMISSION
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October 30, 2018

Docket No. AU-00000E-17-0079

Docket No. E-01345A-18-0002

Docket No. E-01345A-16-0036

DOCKET No. E-01345A-16-0123

Initially I strongly believed that Commissioner Tobin should recuse himself from any matters regarding APS due to his position as stated in his October 9, 2018 press release on Commission letterhead regarding opposing Proposition 127 and the history of his ties and interactions with APS/Pinnacle West. However, in view of yesterday's revelations showing a definite breach of Commission ethical standards, I have concluded that it would be in the best interests of all Arizona ratepayers that Commissioner Tobin resign immediately. The data below speaks volumes.

The new revelations about Commissioner Tobin's inappropriate contacts with APS include:

- Arizona Corporation Commissioner Andy Tobin asked APS lobbyists whether they had a "public information strategy planned" to combat negative media coverage of a rate increase request *while the case was still pending*.
- Arizona Corporation Commissioner Andy Tobin exchanged text messages throughout 2018 with lobbyists from Arizona Public Service, often to complain about negative media coverage of *APS' rate increase requests before the Commission*.
- Arizona Corporation Commissioner Andy Tobin went out for drinks with APS's lobbyists and high-level executives – meetings that don't show up on his public calendar – *while a rate matter regarding APS is pending*.

Tobin's pattern of *ex parte* communications with APS violates the Commission's Code of Ethics. Add this to Tobin's ethical issues associated with his October 9, 2018 press release on Commission letterhead opposing Proposition 127, subject now to an ethics investigation by Attorney General Brnovich, and clearly, **Tobin should resign.**

The history of Arizona Corporation Commissioner Tobin's inappropriate ties with APS include:

- Less than a week before the election for his seat on the Arizona Corporation Commission in 2016, Republican Commissioner Andy Tobin was caught soliciting donations for a side job that he would do alongside his work at the ACC. Tobin's solicitation called into serious question whether regulated companies like Arizona Public Service could try to curry favor with Tobin via a donation to fund his moonlighting. That side job would be at the ASU Foundation, chaired by Former Chairman and CEO of Arizona Corporation Commission Pinnacle West Capital Corporation Bill Post.

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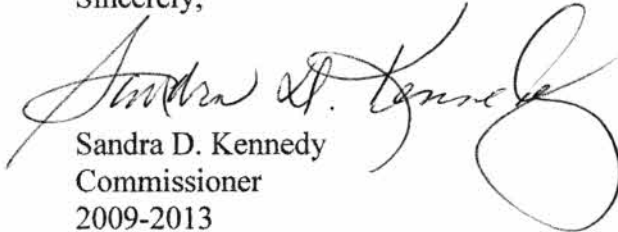
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- Tobin's current job as Commissioner pays \$80,000 per year plus health insurance and travel expenses. Tobin was looking to raise \$332,000 to fund a "Legislative Affairs Institute at Arizona State University". Via ASU's Foundation, funders for the non-profit Legislative Affairs Institute can remain secret. The Institute's purpose, according to Commissioner Tobin, would be to "educate lawmakers".
- In 2013, the ASU Foundation accepted \$181,000 from Arizona Public Service's Foundation, and that same year donated \$100,000 to a dark money group that worked to defeat pro-solar candidates for the 2014 Corporation Commission race.
- Andy Tobin received the benefit of \$1.4 million of independent expenditures from a PAC funded by Pinnacle West toward his election in 2016.
- During the 2016 ACC elections, APS' parent company Pinnacle West set up a PAC, called "AZ Coalition for Reliable Electricity," which spent \$4.2 million of the utility's money on independent expenditures to elect APS' favored candidates, including Tobin.
- In order to allow Tobin to be appointed to the Corporation Commission, the legislature had to pass a special bill weakening the ethical standards for commissioners because Tobin's son in law works at SolarCity, which regularly appears before the ACC. This special bill weakening the ethical standards for commissioners also allowed Tobin's ASU Foundation job to advance.

The latest revelations about Arizona Corporation Commissioner Andy Tobin's inappropriate contacts with APS, coupled with the history of Arizona Corporation Commissioner Tobin's inappropriate ties with APS/Pinnacle West set a dangerous precedent for the Arizona Corporation Commission. The Commission must operate with unquestioned ethics and integrity.

Sincerely,



Sandra D. Kennedy
Commissioner
2009-2013