

# ARIZONA CAPITOL TIMES

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## Critics target ACC decision on power line extensions

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Arizona has long been one of the fastest-growing states in the country. But debate over who pays for that growth has flared up after a series of decisions by the Arizona Corporation Commission that put the bill squarely in the hands of the builders. In July 2007, the Corporation Commission reversed a policy of more than 50 years that forced Arizona Public Service, the largest energy provider in the state, to extend its power lines at no cost to any development within 1,000 feet of an existing line. Subsequent decisions in 2008 changed similar policies for Tucson Electric Power and UniSource Energy Services. Opponents of the decision worry that making homebuilders and developers pay for line extensions that can cost \$20,000 or more will hinder growth by making it more expensive at a time when the construction industry in particular and the economy in general are struggling. The new policy, they say, will be especially harmful in rural areas where property and power lines are often spread far apart. Supporters on the commission feel it is unfair to increase utility rates so that the costs are passed onto pre-existing customers, and say they are simply making growth pay for itself. Outgoing Corporation Commission Chairman Mike Gleason proposed the amendment to the APS rate hike that eliminated the free extensions. Gleason's term on the commission ended Dec. 31.

"We consider that a business expense. That's an expense for a particular business, and previously all the other ratepayers had been sharing that expense," Gleason said. "(The decision) probably should've been made 10 years ago, but better late than never."

Corporation Commissioner Kristin Mayes, who voted in favor of the new policy, said the decision was a fundamental issue of fairness.

"We decided to eliminate the free-footage allowance because we were concerned that utility ratepayers were subsidizing wildcat developers and lot-splitters and sprawl in general," Mayes said. "Millions of dollars, tens of millions ... of ratepayer dollars per year were being spent to facilitate development."

A small group of landowners, homebuilders and developers called Arizonans for Fair Power Policy is hoping to convince the Corporation Commission to reverse that decision. The group argues eliminating the free extension, and thus making it more expensive for people to build, reduces the tax base and discourages new businesses, new homes, new growth and new jobs. AFPP's Mike Wyllie found out about the change in policy as he was trying to sell a piece of land. The buyer went to APS to set up a line extension, Wyllie said, only to find out that he would have pay thousands of dollars for something that had always been free in the past. Wyllie, who owns land in Buckeye, Tonopah and Wittmann, said APS customers were not given adequate notice that the change was being discussed, and were given no opportunity to voice their concerns.

Wyllie said the lack of adequate notice by APS and the Corporation Commission left many landowners with unforeseen costs that reduced the value of their properties. On one piece of land that Wyllie owns, he said a line extension will now cost him between \$7,000 and \$10,000.

"The landowners of this state, the day that that policy passed, had to have lost at least \$2 billion in land-asset value," Wyllie said. "The construction (industry) is gutted. Everybody knows that. And this is not helping out at all."

Jeff Guldner, the vice president of regulation at APS, said homebuilders associations were notified to put the word out about the policy change. And, according to APS, a grace period of about six months was included in the new policy for people who already had started the process of extending lines to their property.

"I would not be surprised if there were some customers who didn't know that at the time they purchased a parcel of property, but we did try to have a transition program in place to try to be as fair as we could," Guldner said.

The Home Builders Association of Central Arizona notified its members of the new policy and testified against it at the Corporation Commission, said HBACA President Connie Wilhelm. In the association's view, Wilhelm said, the new policy forces home builders to pay for business development for utility companies.

"We think that the current system was working and there was no reason to change it, but obviously the commissioners disagreed with us," Wilhelm said. "The commission did this to the home building industry on gas a long time ago and has required us to extend gas lines out, and that was one of the reasons why much of the area in Buckeye is not going to be serviced by gas, because there was no ability for any one developer to go ahead and put the gas line out in that particular area."

"I guess we don't have the luxury of whether or not you put electric in."

The group of about eight people has about 200 signatures on its petition, Wyllie said. AFPP is hoping to collect 1,000 signatures so it can submit to the Corporation Commission the petition, along with a fiscal impact study and letters from numerous real estate professionals and various legislators, Wyllie said. The group already has two prominent backers — state Sen. Sylvia Allen, R-Snowflake, and outgoing Commissioner Jeff Hatch-Miller, the only commissioner who voted to continue the free extensions.

Hatch-Miller said the issue is not whether to transfer the cost to big developers and contractors, but rather the impact on

individual homeowners.

"We're not talking about growth paying for itself here. ... We're talking about individual homeowners here who maybe bought a small piece of land in Chino Valley or out in the desert past Apache Junction or someplace, and they want to build a home for themselves. And they simply don't have the money to pay five- or seven- or nine-thousand dollars to bring that line the last thousand feet," he said. "I grew up in rural communities where that last thousand feet was really important."

Taylor resident Thelma Perkins said she and her husband planned to build a new home in town. They bought the land, but were unaware of the new fees and were not covered under the grandfather clause for APS line extensions, which Perkins later learned would cost about \$17,000. The unexpected cost has held up their plans, she said.

"We weren't prepared to pay anything because we didn't realize that the change had occurred," Perkins said.

Perkins contacted Allen, her state senator, and Allen has taken up the cause. In a letter to Commissioner Gary Pierce, which is posted on AFPP's Web site, she said the new policy will cause massive hardships for people who want to build new homes for themselves and will hurt Arizona's already struggling real estate market.

"From the very beginning, infrastructure was brought in, and those who'd gone before us had laid the lines and the poles. As people moved in, you know, they've been able to have access to utilities, and ... a part of (the utility rates) was always for growth and expansion," Allen said. "Once a person is locked into that line, they're a customer for life. They pay for life.

"As far as planning ahead for growth, it was good for (the utility companies) because it was more customers."

Allen is concerned about the policy's impact in rural areas, such as her district. Anyone who builds inside the Phoenix metro area is likely to be on or near pre-existing lines, she said, but those lines are far fewer in rural Arizona.

Guldner said the free extensions cost APS about \$50 million a year, with millions of dollars in costs passed to customers in the form of additional rate hikes. The big question, Guldner said, was whether there is "a way you can allocate these costs to the cost-causers, which would be the new customer growth, and that way help keep the rates lower for the existing customer base?"

"And that's not an uncommon principle in electric-rate design," Guldner said.

Mayes also cited the new policy as a common principle, noting that Arizona is not alone. Nevada offers no free footage for power-line extensions, she said, while Iowa provides 50 free feet and Kansas provides 75.

Some legislators such as Allen support the restoration of the old policy, while others are unfamiliar with the issue and haven't heard any constituent complaints. But the Legislature has little, if any, say in utility rates and line extensions. Those issues fall under the purview of the Corporation Commission, which has seemed determined for the past year and a half to make builders responsible for the cost of extending power lines to their property.

Tucson Electric Power spokesman Joe Barrios said either policy would be revenue-neutral for his company, but the commission appeared to feel strongly about making the change, so TEP submitted a rate-hike proposal that included the elimination of the free extensions.

"When we submitted that we didn't state that we had a clear preference for one alternative over another. But ... as our rate cases progressed, based on what we were being told and what we saw in other cases, it just seemed clear that the commission preferred this alternative," Barrios said.

The decision to eliminate the free APS extension was only the beginning of the commission's quest to shift the costs of growth to builders and developers. In the latter part of 2008, the 500-foot extension TEP provided its customers was eliminated, as was a free extension offered by UniSource Energy Services.

Not everyone who is building in Arizona will find themselves paying out of pocket for line extensions. The commission excluded Indian reservations from the new policies, as well as the Salt River Project, which is not regulated by the Corporation Commission because it is a political subdivision of the state and has a publicly elected board of directors.

SRP has no plans to stop providing free extensions of up to 1,000 feet, according to Aidan McSheffrey, manager of corporate pricing for SRP.

Mayes said the new policy will keep future utility-rate increases lower than they otherwise would have been. For example, she said, APS is asking for a 7-percent rate increase, which she believes would have been 3-5 percent higher if the free extensions hadn't been nixed.

Opponents of the new policies are hoping that a new commission will be more amenable to the old way of doing things.

Gleason, Hatch-Miller and William Mundell are at the ends of their terms, and incoming commissioners Sandra Kennedy, Paul Newman and Bob Stump will be sworn in Jan. 5.

Kennedy said she did not want to comment on the issue before she meets with staff to learn more about it. Stump declined to comment as well. And Newman could not be reached for comment.

Only Hatch-Miller voted against the July 2007 rate schedule that ended the free APS extensions, but there will still be one solid 'no' vote when the new commission convenes without him. Pierce said his views on the issue have changed since the original vote, and he supports the reinstatement of the free extensions. He and Hatch-Miller voted against the amendments for the TEP and UES rate hikes that ended the free extensions.

Pierce voted for the new policy, but now believes the commission's decision on APS was a mistake that was made in haste.

"In hindsight, I felt like we were really chasing pennies and discouraging development, but there seems to be a push here to make growth pay for itself and not have any freebies," Pierce said. "I think the commissioners and others were concerned about the rates to the extent that they were looking for any way to mitigate the rate increase."

Pierce acknowledged it may be difficult to turn back the clock, but he is hopeful that at least two of his three new colleagues will favor the old policy.

"We have an APS rate case coming up that I can't really talk about, but I intend to be consistent with my amendment (on TEP and UES)," Pierce said. "Who knows? Maybe all three of them will support restoration of that."

Mayes has not shared in Pierce's change of heart, but said the commission could hold a workshop to "fine tune" the policy.

"If we do that, both sides are going to have to argue their case, and folks who are opposed to this policy are going to have to argue why consumers should have to foot the bill for development and urban sprawl," she said.