

LWVGT Voter Education Program - February 16, 2019 How Does the Arizona Corporation Commission “Rate?”

ACC Background

The Arizona Corporation Commission is the public utilities commission charged with the responsibility of regulating utilities in Arizona and setting rates that are just, fair, and reasonable for both providers and consumers.

For most Arizona voters, it is difficult to fully comprehend the role and the authority the ACC has and the commission’s impact on their lives. Decades ago, members of the judicial branch began referring to it as “the fourth branch of government,” in Arizona.

Established in 1912 in Article 15 of the Arizona Constitution, the original 3-member board was given jurisdiction over Utilities, Pipeline Safety, Railroad Safety, Securities, Corporations and Transit. The commission has since been expanded to 5 members and Transit was removed from its jurisdiction. Additionally, the Residential Utility Consumer Office (RUCO) was established by the Arizona Legislature in 1983 to represent the interests of residential utility ratepayers in rate-related proceedings involving public service corporations before the Arizona Corporation Commission.

Currently the Arizona Corporation Commission has jurisdiction over:

- the quality of service and rates charged by public service utilities (i.e. electric, **private water** companies – but not public);
- enforcement of pipeline safety standards and the operating practices applicable to the transportation of gas and hazardous liquids by pipeline and the operation of liquefied natural gas facilities;
- enforcement of the Federal Safety Standards for track, signal, motive power and equipment, railroad operating practices, and the shipment of hazardous material by rail;
- ensuring the integrity of the securities marketplace through investigative actions as well as the registration and/or oversight of securities, securities dealers and brokers, investment advisers and their representatives;

- And approving the filing of all articles of incorporation for Arizona businesses, all articles of organization for limited liability companies, granting authority to foreign corporations to transact business in this state, propounding interrogatories when necessary to determine a company's lawful purpose, and revoking the corporate charters of those corporations which choose to not comply with Arizona law.

By virtue of the Arizona Constitution, the Commissioners function in an Executive capacity. When they adopt rules and regulations they function in a Legislative capacity, and when sitting as a tribunal and making decisions on contested matters (i.e. rate cases) they act in a Judicial capacity.

Both interesting and important to note, is that only 7 states have constitutionally formed commissions. Arizona is one of only 14 states with elected commissioners. In other states, commissioners are appointed by either the governor or the legislature. Members of the Arizona Corporation Commission are elected to 4-year terms and no member is allowed to hold that office for more than 2 consecutive terms. In case of a vacancy in the office, the governor is responsible for appointing a commissioner to fill the vacancy.

Arizona voters are most likely to become aware of the ACC when they create a business by filing incorporation papers, file a complaint for securities fraud, see their utility bills increase, or vote for their favorite candidates during a general election.

The unusual scope of the ACC's power and authority provokes some interesting thoughts and questions. For example:

- Would it be beneficial to Arizona Voters if the Commission were non-partisan?
- How do Arizona Voters ensure that members of the Commission have relevant qualifications when they take office?
- Should Arizona Voters expect members of the Commission to abide by ex-parte rules and other ethical legislative conduct rules? If so, how will the members be held accountable?
- Other than elections, what opportunities does the average Arizona Voter have to engage in feedback to the Commission regarding the Commission's positions and actions?