

APS RATE SETTLEMENT FILED

In March, a comprehensive settlement of issues raised by APS' request for a rate increase was filed with the Arizona Corporation Commission. In last year's application, APS requested an overall revenue increase of 5.74% which would have raised the typical monthly bill for residential customers by almost 8% or about \$11 per month.

Under the terms of the settlement, APS would be allowed an overall revenue increase of 3.3%. The typical bill for residential customers would increase 4.5%, or about \$6 per month.

There was widespread participation by stakeholder groups in the rate proceeding. Forty different entities and individuals had intervened in the case, thirty of which supported the settlement agreement as filed.

The Center represented five separate intervenors in the case including Arizona Community Action Association (a low income advocacy organization), Vote Solar (a nonprofit organization promoting solar energy), Southwest Energy Efficiency Project (a nonprofit organization devoted to energy efficiency issues), Western Resource Advocates (a regional nonprofit organization addressing energy issues) and the Arizona School Boards Association/Arizona Association of School Business Officials representing Arizona's public schools.

The settlement agreement addresses numerous issues besides the overall rate increase. The agreement

provides benefits to limited income customers with increased funding from the current \$35 million to \$48 million to provide monthly discounts as well as a \$1.25 million annual emergency bill assistance fund. The agreement also comprehensively addresses rooftop solar issues including grandfathering existing private solar customers and compensating future private solar customers for their excess electricity. The agreement also establishes a special discount rate for Arizona's public schools.

The settlement agreement also makes significant changes to APS' rate options for residential customers. Basic service charges for each of the rates is being increased and new or moving customers must take service under a time-of-use or demand rate for 90 days before being allowed to switch to APS' basic flat rate plan that charges a monthly service fee and flat rate for

kilowatt hours of electricity regardless of when it is used throughout the day. It is these rate design changes that has caused concern among some advocates, including Southwest Energy Efficiency Project, which declined to support the settlement agreement.

A hearing to determine whether the settlement agreement is in the public interest and should be approved by the Commission is scheduled to begin on April 24. The Commission has scheduled numerous public comment sessions to get input from the public. Individuals are also able to submit comments directly to the docket at the Arizona Corporation Commission.

Once the hearing concludes, the administrative law judge will prepare a recommended opinion and order for the Commission to consider at an open meeting, most likely in June with any new rates to be effective no sooner than July 1.

Davis Monthan "Operation Snowbird" Update

On March 27, 2017, the Center filed a Motion for Summary Judgment in *Ornelas v. USAF*, the lawsuit we filed in federal court last January challenging the U.S. Air Force's failure to adequately evaluate the environmental impacts—especially noise impacts—of a plan to expand the training program for visiting units at Davis-Monthan Air Force Base. The training program,

formerly known as Operation Snowbird, officially began in 1975 as a wintertime-only program for A-7 and F-100 aircraft units from out of state. Over the years, the Air Force not only expanded the program to year-round, but also opened the training program to a wide range of aircraft from all over the world, including F-18s and F-15s which are

(Continued on page 2)

**Arizona Center for Law
in the Public Interest**
514 W. Roosevelt St.
Phoenix, Arizona 85003
(602) 258-8850

P.O. Box 41835.
Tucson, Arizona 85719
(520) 529-1798

www.aclpi.org

Phoenix Staff
Timothy M. Hogan
Executive Director

Anne Ronan
Staff Attorney

Tucson Staff
Joy E. Herr-Cardillo
Staff Attorney

Board of Directors
Roopali H. Desai, *President*
Stacy Gabriel, *President-Elect*
Geoffrey M. T. Sturr, *Treasurer*
Robert Bartels, *Secretary*
Daniel J. Adelman
Irene Márquez Biggs
Michael J. Brown
Garry Bryant
Bryn K. DeFusco
Stanley G. Feldman
D. Andrew Gaona
Adriane Hofmeyr
Eugene M. Kadish
Stanley Lubin
Joel W. Nomkin
David J. Ouimette
Bruce Samuels
Tanveer A. Shah
Amanda Sheridan
Lee Stein

The Centerline is a quarterly
newsletter published by the Arizona
Center for Law in the Public Interest.

Please Join Us April 22nd to Celebrate Tim Hogan's 25 Years as the Center's Executive Director

This year, the Center's annual event will be held on Saturday, April 22 at The Unexpected Gallery from 6:00 p.m. to 10:00 p.m. Once again we will have a hosted bar and food from Arizona Taste. Instead of a sit down dinner, we will have passed hors d'oeuvres and elegant food stations set up throughout the gallery.

As long-time Center supporters know, at this event we always try to recognize the work of people and organizations who have dedicated themselves to important public interest issues. This year, we will be honoring our own Tim Hogan in recognition of his 25 years with the Center. Tim's impact as the Center's Executive Director has been legendary and we are very proud of all that he has accomplished. During his tenure at the Center, Tim has not only been an outstanding and effective litiga-

tor, he is a wonderful boss!

The evening's entertainment will include live music from local favorite Sugahbeat and we will once again have our silent auction. This year, we will be using online bidding, so even if you can't make the Gala, you can join in the auction. Bidding will start April 15th at aclpi.auction-bid.org. Auction items feature wines from all over the world, golf outings, restaurant gift certificates, and fabulous vacation packages.

This is the Center's only fundraising event of the year in the Phoenix area, so please make every effort to attend and join the fun. Tickets are \$150 each and are available by contacting the Center at (602) 258-8850 or you can register online at our website, www.aclpi.org. If you would like to attend but the ticket price is too steep, please let us know. We often have a limited number of tickets available at no cost.

We hope to see you there!

DM Lawsuit continued

(Continued from page 1)

significantly louder than the A-10s stationed at DMAFB. The Air Force implemented that expansion without undertaking the federally-required environmental analysis to evaluate the impact that it would have on the surrounding environment—in particular the long-established neighborhoods located within DM's flight pattern.

This lack of environmental compliance came to light several years ago, and in response to public outcry, the USAF agreed to undertake the required analysis, albeit more than 30 years late.

As we establish in the Motion for Summary judgment, the Environmental Analysis prepared by the USAF fails to comply with the law's requirements. Among other deficiencies, the EA fails to adequately analyze: the cumulative impacts of the TFT program; the noise impacts; the health impacts—particularly the health impacts to children; and environmental justice issues. The Motion and supporting Statement of Facts is available on the Center's website at <http://aclpi.org/case/ornelas-v-us-air-force>

CENTER LAWYER TO LEAVE FOR UNIVERSITY OF ARIZONA POSITION

Joy Herr-Cardillo who has been the Center's attorney in Tucson for the past 18 years has announced that she has accepted a position to become a member of the James E. Rogers School of Law Faculty at the University of Arizona beginning in August. Joy leaves a rich legacy of public interest work behind her at the Center and she will be deeply missed.

Joy came to the Center from what was then the law firm Streich Lang in 1999. She had big shoes to fill because she was replacing David Baron in our Tucson office. David had been the Center's and the state's preeminent environmental litigator for the previous 18 years. Joy managed to not only fill David's shoes but exceeded all expectations in an area that was completely new to her.

She was almost immediately thrust into the Center's work attempting to protect Arizona's river and streambeds from destruction thanks to the efforts of the Arizona legislature. Throughout her time at the Center, Joy has litigated both in court and in numerous administrative proceedings the navigability of Arizona's rivers and streams in order to establish that the public trust doctrine attaches to them and prevents the legislature from giving them away.

She likewise continued the Center's enforcement of the Clean Air Act in numerous lawsuits against the state and the EPA for noncompliance and just last year won another such lawsuit challenging the state's plan for addressing particulate pollution. She also filed lawsuits under the federal National Environmental Policy Act challenging governmental actions that would have adverse

environmental impacts.

But Joy didn't just work on environmental issues at the Center. She co-counseled the Center's lawsuit challenging programs and funding for English language learners in Arizona's public schools, litigated numerous issues involving the disposition of Arizona's state trust lands and co-counseled the Center's efforts to defend the state's expansion of its Medicaid program over the objection of legislators.

Joy has been teaching legal writing as a Part-time Professor of Practice at the law school for the past 15 years. When the law school decided to restructure the writing program and establish two new full time Legal Writing Specialist positions, Joy pursued one of them saying that it is the only opportunity that would have caused her to consider leaving the Center.

To be sure, Joy's departure is a significant loss for the Center, the environment and the many other public interest issues that Joy has touched during her time here. She is now the one that is leaving some very big shoes to fill.



Joy arguing in the Ninth Circuit Court of Appeals in June 2016, *Bahr v. EPA*

COURT OF APPEALS UPHOLDS MEDICAID EXPANSION

The Arizona Court of Appeals has affirmed the lower court and held that Arizona's Medicaid expansion was constitutional. The court rejected the argument advanced by disgruntled legislators who had opposed the expansion that the hospital assessment authorized by the legislature but set and implemented by the AHCCS Director was a tax, and thus required a supermajority in order to pass. Rather, the court agreed with the State and the Center that it was an assessment that fell within a constitutional exception.

This lawsuit commenced when Governor Brewer was still in office and the Center participated as an amicus. The court initially dismissed the case on the grounds that the legislators did not have "standing" to bring it. But by the time that the Arizona Supreme Court disagreed and reinstated the case, Governor Ducey had been elected. As a precaution, four individuals who were able to enroll in AHCCCS as a result of the expansion intervened in the case. The individuals are represented by the Arizona Center for Law in the Public Interest and the Morris Institute for Justice

THANK YOU

The Center would like to thank
LEXIS-NEXIS
for its continuing grant of computerized legal research services.

ACLP I	dedicated to ensuring government accountability and protecting the legal rights of Arizonans
	514 W. ROOSEVELT ST. PHOENIX, ARIZONA 85003

Nonprofit Organization
U.S. Postage Paid
Phoenix, Arizona
Permit No. 1202

ADDRESS SERVICE REQUESTED

Please make any address or name changes to your mailing label and return it to the Phoenix office .
Printed on Recycled Paper

Your support helps us continue our important work

Enclosed is my contribution:
 ___\$1,000 ___\$500 ___\$150 ___\$100 ___\$75 ___\$50 Monthly \$_____

Name: _____

Email: _____

Address: _____

City: _____ State: _____ Zip: _____

_____ I wish my donation to remain anonymous.

Payment: Check Enclosed (payable to Arizona Center for Law in the Public Interest) or Charge:

VISA Mastercard American Express

Card No. _____

Exp. Date: _____

Signature: _____

Please return this form to:
 Arizona Center for Law in the Public Interest, 514 W. Roosevelt St., Phoenix, AZ 85003

Thank you for your support!
 Your donation is tax-deductible to the extent allowed by law.