

**Board of Examiners' Meeting**

**November 8, 2016**

**Public Comment**

**Attachment A**

**Fred Voltz**

**January 17, 2017**

**Originally Submitted by Fred Voltz**

Board of Examiners' November 8, 2016 Meeting—First Public Comments—Fred Voltz

There are a number of irregularities in the way Contract Item #22 has been handled. The request calls for \$214,400 of outside legal fees to mount a defense for just one former PUC employee, Carolyn Tanner, of her statements and actions while in the position of PUC General Counsel and offers no substantive documentation.

A summons was issued by the U.S. District Court on July 19, 2016. If Ms. Tanner was served on the 19<sup>th</sup>, she had until August 17<sup>th</sup> to respond, per Court's rules. The PUC and/or Ms. Tanner had adequate time to competitively shop for qualified legal counsel. They did not do so, claiming in item #2a's Contract Summary response that "due to the short timeframes for responding to the Lawsuit" they had to select the Robison law firm in Reno, none of whose attorneys list civil rights as an area of practice specialization. It took over two additional months for the PUC to issue its after-the-fact contract approval.

Absent from the Contract Summary is a disclosed projection of how many billable hours will be spent on this case between lead attorneys (of which there are three, including Ms. Tanner) junior attorneys and/or paralegals. One of the Robison attorneys listed as a lead attorney has four years' experience as a lawyer. How can a contract be prudently approved when the extent and nature of services performed are hidden?

If Ms. Tanner has the PUC (really the state's ratepayers) covering her legal defense fund, why did she file a motion to dismiss the case through the Robison law firm on September 19<sup>th</sup>, asking for attorneys' fees, court costs and \$10,000 in compensatory damages paid to her personally? Such a filing infers 'double dipping,' but when other people's money is being spent, there is too often an attitude of indifference.

No proof has been offered up by the Attorney General's office or the PUC that their many attorneys are sufficiently overwhelmed with other work, lack the requisite skills for representing the PUC in this matter, or that specifically identify the alleged 'conflicts.' There is even an equitable argument to be made that because of Ms. Tanner's imprudent comments against the alternative energy industry, a major part of Switch's law suit, and which she claims were a part of her free speech rights as a private citizen made on social media and newspaper websites, she should personally pay for at least part of her legal defense, particularly since she used the pseudonym "DixieRaeSparxs" in an attempt to hide her true identity.

Bottom line, this contract should not be approved today, and the PUC, as well as Ms. Tanner, need to better justify the compelling need for external legal counsel lacking subject-matter specialization and retained without competitive bidding. From all outward appearances, Ms. Tanner unilaterally selected and the non-Commissioner PUC employees tacitly approved this law firm one day after the arrival of its new Chairman.

A bigger issue this proposed contract highlights is whether the various attorneys at state agencies should be handling any complex litigation matters. The Governor recently cited the former

attorney general for spending \$25 million in four years on external legal counsel. If the hundreds of attorneys employed by the state are not able to handle all types of legal matters for the state, then perhaps a handful of them should be retained for oversight and the majority of cases farmed out at a volume, discount rate to external law firms. How much could be potentially saved in state lawyer salaries and benefits with such an approach? Someone in state government needs to look into this alternative and perform a cost comparison.

