

TRANSCRIPT – THE ‘DARTH VADER’ OF ELECTRIC UTILITIES

Leah Stokes: Today we’re sharing an episode that originally aired on our very first season. It’s all about how electric utilities abuse their monopoly power to attack renewable energy, influence regulations, and slow down climate action. And you know, it’s kind of a topic I’m obsessed with. Uh, I think I kind of wrote a book about it.

Katharine Wilkinson: I’m pretty sure you did. This particular story of the many that Leah is obsessed with, this one is set in Arizona. And it follows the state’s biggest electric utility, Arizona Public Service in a really rather ugly fight against rooftop solar. In this episode, we talked with lawyer and former corporate commissioner Kris Mayes.

Leah Stokes: Kris used to serve as one of five elected officials in charge of overseeing utilities in Arizona as a commissioner. She helped write Arizona’s renewable energy standard, which was a really big climate win at that time. When we interviewed her about Arizona Public Service, she called them the Darth Vader of electric utilities.

Katharine Wilkinson: Dun-dun-dun. I’m sure there’s a more Star Wars-y noise to make in that moment, but I don’t know. If you’re the Darth Vader of electric utilities I think that’s basically as bad as it gets. And we loved that burn so much that it became the title of the episode. So, we’re bringing back a classic because it really could not be more timely.

Leah Stokes: In the 2022 midterm elections just this last fall, Kris Mayes ran for attorney general of the state of Arizona. And I gotta say, I watched this race very closely. You know, I supported Kris, I gave money, I told other people to support her. I was super excited. And then when the election happened, it was a total nail-biter. I was like refreshing the page, constantly trying to figure out who won. It went up and down and sideways, and it actually went into a recount in December of 2022. And finally, she won – by just 280 votes. It was one of the tightest races in Arizona history.

Katharine Wilkinson: See what we’re saying in the “What Can I Do?” series? Voting is a piece of the puzzle; 280 votes, that’s quite amazing at a statewide level. And I think Kris’ victory really goes to show how powerful just a handful of votes can be, especially when we’re talking about the local and state levels.

Leah Stokes: And you know, on top of Kris becoming attorney general, this episode remains super timely because the fact is, American utilities are still slow-walking on climate.

Katharine Wilkinson: Literally the worst dance moves on the dance floor.

Leah Stokes: You don't like the slow walk? It's not your thing?

Katharine Wilkinson: I'm not into it.

Leah Stokes: Well, that's what utilities are up to and I know that. Last year I published this paper which looked at the history of electric utilities sowing climate denial, doubt and delay. And I also worked on a report with the Sierra Club where we dug into the 50 dirtiest utilities. And the fact is that they are still proposing massive amounts of dirty gas and they're not planning to retire their dirty coal. So, we are not moving in the right direction when it comes to our electric utilities in this country.

Katharine Wilkinson: These sound like some really important things for us to link to in the show notes, so find further reading there. And spoiler alert, there are a lot of failing grades in that Sierra Club report. Electric utilities have spent millions not of their own money, of customer dollars to fund ad campaigns against renewable energy. And one prime example is Arizona Public Service. So, without further ado, we hope you enjoy – slash despise – this episode and its tale of dirty misdeeds.

Leah Stokes: In 2013, a series of attack ads blitzed television sets across Arizona.

Campaign ad: We've seen this before.

Barack Obama: The true engine of economic growth will always be companies like Solyndra.

Campaign ad: Connected companies getting corporate welfare.

Leah Stokes: They warned of a dire threat to senior citizens. Any day now, bad things could start happening. Who was the villain? Solar energy.

Campaign ad: It's not right. We don't need this California-style corporate welfare in Arizona.

Leah Stokes: Ryan Randazzo took notice. He's a veteran business reporter at the Arizona Republic who covers energy and utilities. Ryan was used to his beat being overlooked. He'd go to these obscure public meetings to record the latest votes on utility investment plans and rate schedules and compliance rules. But when solar energy started to pick up in Arizona, that all changed.

Ryan Randazzo: Suddenly it went from this really arcane subject that people would talk about in a monthly meeting with 10 people in the audience to we're seeing commercials on TV talking about how evil solar is and how these California billionaires are taking over the state of Arizona. And it became just front and center in the political arena in Arizona at the time.

Leah Stokes: Kris Mayes saw those attack ads too. She used to be a commissioner, someone who is charged with regulating utilities in Arizona, and she presided over those 10-person boring meetings. Even as Republican, she had championed solar energy and she was flabbergasted by the attack ads.

Kris Mayes: It was shocking, I have to tell you. It was absolutely shocking. You're sort of scratching your head going, what in the world? This was like, what is this?

Leah Stokes: It was the start of a year's long war over solar and those mysterious ads, they were the opening shot.

Katharine Wilkinson: Well, I'm super curious now, Leah, who created these ads?

Leah Stokes: Well, Katharine, we've been friends for long enough, you know the kinds of stories I like to tell, what do you think?

Katharine Wilkinson: I do have a sense of the stories you like to tell, Leah, I'm guessing they're big and they have lots of money and they don't really love competition.

Leah Stokes: You're getting warmer.

Katharine Wilkinson: Was it an electric utility?

Leah Stokes: Ding, ding, ding, it sure was. This attack on solar was launched by the state's biggest electric utility, Arizona Public Service, or APS.

Kris Mayes: For Star Wars fans, APS became the Darth Vader of electric utilities in America. I think you would be hard pressed to find a utility that behaved as badly as APS did in the last decade.

Leah Stokes: This is a Matter of Degrees. I'm Dr. Leah Stokes.

Katharine Wilkinson: And I'm Dr. Katherine Wilkinson.

Leah Stokes: And together, we're telling stories for the climate curious.

Katharine Wilkinson: So Leah, you released a book called Short Circuiting Policy, it's very clever title, and it's all about how electric utilities have been slowing and stalling progress on clean energy. So if someone like Kris Mayes is calling Arizona Public Service the Darth Vader of electric utilities, I'm guessing this is probably a story you know pretty well.

Leah Stokes: Yeah, I know it really well. I wrote about this case for my book. And I did that because it's a prime example of a monopoly utility abusing its power.

Katharine Wilkinson: So for listeners who haven't written an entire book on this topic, could you just go into Professor Stokes mode for a minute and just explain what a monopoly electric utility is?

Leah Stokes: Sure. Electric utilities are companies that you're probably more familiar with than you realize because they're the companies that you buy your electricity from. And in most parts of the country, you don't have any choice about what company that is. That's because electric utilities are monopolies. They get these guaranteed customers. And in exchange, the state government is supposed to oversee them through a commission, which is just a fancy term for a state regulator.

Katharine Wilkinson: Right. So this in my case is Georgia Power?

Leah Stokes: Yeah. And in my case it's SCE or Southern California Edison, and an Arizona, the largest electric utility in the state is Arizona Public Service or APS. And through their parent holding company, they're basically a \$9 billion company.

Katharine Wilkinson: So I looked this up and this is big. That's like Fortune 500 size company, and it's a monopoly. So, what's the problem with that?

Leah Stokes: Well, what happens if your electric utility starts doing things that you don't agree with? What if they start attacking solar and proposing to build more and more fossil gas plants? What if they actively resist clean energy progress? Well, you don't get a choice, right? You have to buy electricity. It's an essential good, and you have to buy it from them. And as a customer, you're funding that. You're funding this kind of climate delay. And as we'll learn today, that is what went down in Arizona.

Katharine Wilkinson: So what you're saying is that this monopoly utility helped elect its own watchdog, its own regulator. And then that regulator started to do exactly what the utility wanted, which was mostly to kill Arizona solar industry?

Kris Mayes: That is exactly what happened, which is why it was just so painful and awful to watch. And there was a valiant effort by a lot of folks out here to oppose that, to try to stand in the way of APS both electing its regulators and then pushing through these proposals that would benefit it.

Leah Stokes: As monopolies, electric utilities have so much money. They have guaranteed customers and they make a guaranteed profit, often around 10% of their entire costs. So they can use all that money to maintain the status quo. I think of them like a giant octopus with a lot of tentacles in all kinds of civic and public institutions. Kris agreed with me on that.

Kris Mayes: Yeah, it absolutely does have its tentacles in all different parts of the state. I mean, I can remember when I was a corporation commissioner raising these very issues. I still, I was like, why are they spending so much money, it's still tens of millions of dollars, on advertising when they're a monopoly. What is there to advertise about? Why is their name on Bank One Ballpark or why is it all over Bank One Ballpark? Why do you see television ads at random times for APS, usually right before summertime? And I started making proposals about maybe we shouldn't allow this.

Katharine Wilkinson: So who's there to keep these guys in check?

Leah Stokes: Well, that's a great question. They're monopolies, so they need to have regulators. And Kris, she used to serve as one of five elected officials on the

Arizona Corporation Commission or the ACC, which is the regulator charged with overseeing utilities in Arizona.

Katharine Wilkinson: Okay. Right. And in Georgia, we call it the PSC, the Public Service Commission.

Leah Stokes: That's right. Sometimes it's called the Public Utility Commission as well. But in Arizona, the Arizona Corporation Commission is particularly important. Some even call it the fourth branch of state government. Here's journalist Ryan Randazzo again.

Ryan Randazzo: There is a very low level of public involvement. So unlike city council where everybody comes out when they're going to put a roundabout in the neighborhood or change the zoning to allow for a liquor store, very few people participate in the corporation commission, I learned, which was surprising because it's a statewide body with huge influence.

Leah Stokes: The ACC was founded way back in 1912 when people realized that utilities are a monopoly that requires strict oversight.

Katharine Wilkinson: And that seems like a pretty reasonable democratic setup, right? You've got checks in place.

Leah Stokes: Yes. In theory. But the problem is when you have elections for these obscure regulatory bodies like commissions, the company that's being regulated, in this case APS, they're going to pour a lot more attention and resources into that election than voters will.

Kris Mayes: This is a very powerful company in the state of Arizona. And frankly, utilities are powerful in any state, let's face it. These are corporate entities that have basically an unlimited amount of money to lobby their public utility commission to advocate for their positions on issues before public utility commissions. These are powerful companies and if they want to see something happen, they have an enormous amount of influence and resources to try to see those positions through. And the clean energy advocacy community has far less money, far fewer resources.

Leah Stokes: And that's what today's story is about, how powerful corporate forces can manipulate their elected regulators.

Katharine Wilkinson: Ooh, Leah, this one is in your sweet spot.

Leah Stokes: Yeah. Some people like to follow true crime and I like to follow utility corruption. So our story today, Katharine, begins all the way back in the innocent days of 2003. That was the year Kris was appointed to the Arizona Corporation Commission. And during her years as a regulator, she played the role you'd expect. Ryan saw this firsthand.

Ryan Randazzo: Kris Mayes was chairwoman of the Arizona Corporation Commission when I started covering them. And she had a very, I would say, hostile relationship with APS. She really would grill those executives, and the other lawyers in the room would always point out what sort of rough relationship it was between APS and Kris Mayes, and that was always like the main event of any monthly hearing was her sort of going after that utility.

Katharine Wilkinson: So Kris was doing precisely what she was elected to do, ensure accountability?

Leah Stokes: Exactly. And Kris's years as regulator were a really critical time for clean energy in Arizona. In 2006, she helped pass a goal of 15% renewable energy by 2025. It was a big deal at the time, and it was passed by an all Republican commission.

Kris Mayes: When you think about it, you think, well, gosh, would an all-Republican public utility commission today ever do that almost in unanimous fashion? I think there was one dissenting vote. And honestly, unlike today and unlike over the last 10 to 15 years, there really wasn't that much controversy over this issue.

Leah Stokes: But APS, the octopus in the room, they didn't take to Kris's approach.

Katharine Wilkinson: And so how did Arizona Public Service respond to your efforts to pass this policy?

Kris Mayes: Well, APS and the other utilities complained. They didn't like it. Complained a lot that commissions will never be able to do this, this is just too aggressive. 15% renewables is too much. We'll never be able to integrate it onto our grid.

Leah Stokes: Today, renewables are extremely cheap but back in 2006, they were more expensive than fossil fuels. Kris's idea was to get utilities to start investing in the technology so that the cost would come down. And that strategy worked so well we're no longer talking about 15% renewables by 2025. Nationally, we are talking about 100% clean electricity by 2035 as we talked about in a previous episode. When Kris looks back, she's amazed by how far we've come.

Leah Stokes: So what do you think about the rest policy in hindsight? Do you feel like it could have been bigger or how do you feel about it now that we're talking about things like 100% by 2035?

Kris Mayes: I wish we'd gone bigger, that's for sure. Given what I know now about the solar wars and the battles that we had to endure with APS over renewables over the last 10 years, I wish we had gone bigger in 2006, but we didn't. At the time, 15% was pretty ambitious and it was an all Republican commission. So if I had a do over, I definitely would have done more than 15% and I would have tried for more at the time.

Leah Stokes: But it wasn't easy to push for more than 15% when APS was screaming bloody murder over that modest goal. Instead, the regulators just kept working on policy that would help scale up renewables in Arizona. In 2008, they created a new policy that would pay homeowners for producing electricity through rooftop solar on their own homes.

Katharine Wilkinson: You're talking about the policy called net metering?

Leah Stokes: Yeah, exactly, net metering. This allows people to be paid for producing extra solar energy and feeding it back onto the grid. Most states adopted this policy by the mid 2000s and it's been crucial to building solar.

Katharine Wilkinson: Personally, I love me some distributed solar. But again, I know this firsthand from the state of Georgia, utilities don't always exactly share that enthusiasm.

Leah Stokes: They do not. Once solar started getting much cheaper around 2011, APS and other utilities around the country, they started getting really nervous. Between 2011 and 2012, rooftop solar doubled in Arizona and suddenly the state became the second biggest market for solar energy. And then between 2012 and 2014, it doubled again.

Kris Mayes: That's really when the trouble started because when Arizonians started putting solar panels on their rooftops and started to really act on their desire to produce their own power, that of course detracted from APS and the other utilities sales and they started to fight against it.

Katharine Wilkinson: So this is where it gets just a little bit confusing to me because if APS is obligated under the law, the law that Kris helped to pass in 2006, to get more electricity from renewables, well, why do they care whether it comes from rooftops in Phoenix or a big power plant in the desert?

Leah Stokes: Well, Kris hinted at the answer. Remember, these are monopolies. They want to own everything because then they can profit off of their vast infrastructure holding.

Katharine Wilkinson: More lessons from the board game, monopoly, you want to own all the things.

Leah Stokes: Exactly. Utilities, they build infrastructure. And then they apply to their regulator. They say, "Here's all the costs that I had this year and you're going to pay me 10% as profit." So the more that they own, the more profits that they make. If instead you put solar on your rooftop, the utility, they don't own that system. They can't profit off of it. And worse, you stop buying as much electricity from your utility since you're now making your own power.

Katharine Wilkinson: Okay, I get it. It's literally just pure financial interest. Rooftop solar, not good for the bottom line, so they start going after it.

Leah Stokes: Yeah. And once APS realized that rooftop solar wasn't in their financial interests, they started to attack the policies that were enabling Arizona solar revolution, and they had a lot of money for their offensive.

Kris Mayes: A lot started to happen. Things really started to go south, I mean, pretty much immediately after the end of my tenure. The problem is monopoly utilities have an unlimited supply of money. And when a utility decides to engage in this kind of behavior and activity, it's just very hard to stop it. The truth of the matter is APS lost its way and became in a lot of ways a really malign actor in the state of Arizona. That was tough to see and it was hard to fight against.

Leah Stokes: The utility started using money that it was getting from its customers who, remember, have no other choice but to buy from this monopoly

utility. And they started to use that money to attack clean energy. And what's worse, because their regulator is elected, they started to spend money on elections for their own watchdog.

Katharine Wilkinson: Oh, the elections for the commissioners themselves?

Leah Stokes: Yes. And they did that even though their official policy stated that they wouldn't intervene in the elections for their regulator.

Ryan Randazzo: So previously the company always said that they would work with whoever got elected in the corporation commission and they would voluntarily abstain from those elections. So they would not get involved with helping the campaigns of the people who had set their rates, which seemed pretty basic. It was an internal company policy, it certainly wasn't state law or anything to that effect.

Leah Stokes: Without changing their official policy, it started to seem like APS was violating it. They started to spend enormous amounts of money in primary elections. We didn't know how much at the time, but they were effectively hand-selecting commissioners. In the fall of 2012, two Democrat incumbents lost reelection and were replaced by Republicans. But these weren't just any Republicans. They were the Republican candidates that APS had financially supported during the general election. And these new commissioners started to immediately shift the commission's direction. They started to push for monthly fees on solar customers, what some people called a solar tax.

Kris Mayes: What started to happen at the commission is that APS started to advocate for policies that would essentially decimate the solar energy industry in our state. So let's just say you're a family of five and you've got two young kids and you have to make dinner at five o'clock, and let's say you've got a load of laundry in at the same time. Well, you're probably going to be using the most energy of the month at that moment where you're doing all of those things and using light electricity and in Arizona also using your air conditioner, right? But what APS wanted to do was, bam, hit you with a new charge at that moment, a demand charge at that apex of your energy usage. And in some cases it was like \$75 a month, it's \$110 a month on top of what you were already paying. So not only was that unfair to just every Arizonian, but it also made the economics of solar energy more difficult in a lot of ways.

Leah Stokes: These new commissioners, the ones that APS had financially supported in the election, they started to put the brakes on solar in Arizona. First, there was that proposal for monthly fees on solar customers, but there was also a proposal to eliminate solar incentives and a proposal to slash APS's modest renewable energy goals, the very policy that Kris had championed. Kris watched all this play out and how it started to affect the fledgling solar industry.

Kris Mayes: They started jamming these proposals forward on the commission, which was an excruciating thing to watch because, I mean, one of the great things that came out of that renewable energy standard that we established in 2006 was that created about 450 companies. It created 10,000 jobs, mostly in a thriving rooftop solar industry. So we had enormous economic development that was sort of sprouting up around these policies that Arizona had passed and that the vast majority of Arizonians supported. And by the way, every poll that's ever been taken on the issue of should we be doing more or less solar energy in Arizona shows that the vast majority of Arizonians believe we should be doing more of it, in particular rooftop solar energy.

Katharine Wilkinson: This is really terrible, Leah. Gutting all of these jobs and pushing really unpopular anti-solar policy all at the behest of APS, as you've taught me, a monopoly electric utility.

Leah Stokes: Yeah, exactly. But the solar industry, they didn't just lay down and die. They put up a good fight. Some of the country's top solar companies created a lobbying group. It was called Tell Utilities Solar won't be Killed, or TUSK.

Katharine Wilkinson: I get it. Like the elephant, the Republican elephant?

Leah Stokes: Yes, exactly. What they were trying to do was build a popular campaign. And so they sent citizens and solar installers to commission meetings to protest these solar roll backs.

Ryan Randazzo: And the rooftop solar companies in Arizona had grown very large by that time because they were getting thousands of customers every month in APS and the other utility territories. They employed thousands of people in the state, people who used to work just as electricians or roofers or car stereo repair men. All of a sudden these folks found new lucrative jobs installing rooftop solar. So you had a real constituency that would have been affected by this. And they came out in force, as well as the environmental groups.

Leah Stokes: And this is when the money started to rain. As the commission was debating changing the solar policy, APS dumped almost \$4 million into ads and lobbying. A bunch of that money went to these front groups, these dark money campaigns who were funding these anti-solar TV ads.

Campaign ad: This man brought his own ice cream and used the truck's toppings for free. But someone's got to pay for those sprinkles. Should these kids subsidize that man's ice cream? Should you subsidize your neighbor's solar panels?

Katharine Wilkinson: Wait, this is totally ridiculous. So they fought back by comparing solar net metering to stealing sprinkles from an ice cream truck? I mean, Leah, if the stakes weren't so high, this actually would be decent comedy.

Leah Stokes: Yeah. I know, right? But it isn't funny because those ads, they were ultimately funded by everyday Arizonians who were just paying their electricity bills. Most Arizonians support solar and they don't support these kinds of anti-solar ads, but they're funding them.

Katharine Wilkinson: Well, what about the test guys? Did they have any money to spend?

Leah Stokes: The pro-solar guys, they aren't monopoly utilities. They don't have the same amount of kind of unlimited money from rate payers to spend on politics. The solar companies were spending about one-tenth as much as APS. But even without all that money, the solar companies had one thing that APS lacked. They had the public on their side. Huge crowds started showing up to public meetings about these solar charges, protesting these changes.

Ryan Randazzo: Protestors just surrounded the building, various different constituencies, like I said. Many worked for the rooftop solar installation companies, but there were environmental groups, there were youth groups, there were Hispanic groups. There was a lot of people there lobbying the commissioners. It showed that consumers can actually protest or write letters or show up in person and talk to the commission and influence the vote at the end of the day. But it also showed how much it actually takes to do that. It took the full force of hundreds of people and corporations like SolarCity and Sunrun showing up. I mean, it just, yes, they moved the needle, but it took a lot of effort to move it a little bit.

Leah Stokes: So the people, they spoke up and they managed to stop APS from totally gutting the state solar policy. But that didn't stop the utility from coming back the next year and trying the same strategy again. In 2014, there was another round of election and APS was determined to get the regulators it wanted once again. So they're spending on the politic sword. APS dumped millions of dollars into a campaign largely through front groups. And Kris Mayes, she noticed something was strange when she saw these ads for the commissioner races blanketing the TV.

Kris Mayes: A corporation commission race, you're talking. sometimes we'd have like \$150,000 to spend on those races as I recall from my campaigns. Yeah, that's enough money to throw out a few street signs and maybe do a couple of mailers, maybe do a little bit of rural radio. But all of a sudden we started to see television ads in a corporation commission, right? So this was just like, what is this? It was all dark money. It was sort of entities that nobody had ever heard of that were stood up overnight or virtually overnight designed to funnel this money.

Leah Stokes: Ryan also remembers watching all of this unfold and at the time APS wouldn't come clean about their election spending. So when you were starting to report in 2013 and 2014 when this money was starting to flow into the primary and the general election for the corporation commission and APS didn't say that we're spending this money, can you tell us a little bit about what that reporting was like? Did you talk to APS? What were some of the things that they said to you when you asked questions?

Ryan Randazzo: Yeah, they really would not address that. They did, in that election, support two Republicans who won, Tom Forese and Doug Little, and those candidates by law could not coordinate with APS. That's the way the election laws work is a corporation like APS can donate and help the political campaigns, but they can't coordinate with the candidates and spend unlimited money. So you had two candidates who were Republicans who had millions of dollars being spent on their behalf and they couldn't really talk about it either. So I would catch these folks and ask them about, "How do you feel about someone, probably APS, spending a lot of money to help elect you? Are you going to be a puppet for them, are you just going to do whatever they want because they're clearly the reason you're going to win this election?" And they were just caught flat-footed.

Leah Stokes: APS refused to tell the truth that they were spending money on these elections, money that ultimately came from everyday Arizonians. It was only years later, after they were hit with subpoenas and even sued one of their own regulators, one of the commissioners, the utility did that, that they finally disclosed how much money that they'd spent on these elections.

Ryan Randazzo: What was shocking is last year APS finally did come out in response to a subpoena from a Democrat who was elected to the corporation commission. They told us how much they spent and it was closer to like \$12 million. People were extremely offended that APS was spending 3 or \$4 million. When they learned the real price tag and that they had spent more than double that, it was extremely shocking that that's how involved they were in an effort that at the time they would not even discuss publicly.

Katharine Wilkinson: Whoa. So they literally bought their own regulators to the tune of \$12 million, and they did that as a monopoly company selling a basic essential service?

Leah Stokes: Yup. Arizona regulators spent years embroiled in these debates over whether we shouldn't build solar and whether we should scale back renewables. And that was exactly what APS wanted. They wanted to delay. In all these shenanigans, they even caught the attention of law enforcement. The FBI stepped in opening a criminal investigation into the utility's election spending.

Katharine Wilkinson: So let me recap. People got angry at APS, the solar industry mobilized, the FBI investigated, the commission got back on track with doing its job eventually under all this pressure APS had to fess up. So case closed, yeah?

Leah Stokes: Not exactly. The utility started its political spending up once again in 2018, this time on an even bigger scale. That was when a ballot initiative called Proposition 127 was introduced that would require APS to get 50% of its electricity from renewables by 2030. Kris Mayes worked on that.

Kris Mayes: Well, I mean, like everybody else, I just had enough. I got fed up and I got engaged. 50% seemed like a reasonable target. Would help rate payers, would have saved rate payers according to our analysis \$4.1 billion over its lifetime and would have reduced carbon dioxide emissions by 4.6 million tons, which was the equivalent of taking 900,000 cars off the road. So we launched this initiative knowing that 80+ percent of Arizonians believe that our utilities should

be investing in renewable energy and that the ballot initiative would have strong support from Arizonians.

Leah Stokes: It was a great idea and a popular one too. According to Kris, they filed more signatures in support of the renewable energy target than for any other ballot initiative in Arizona history.

Katharine Wilkinson: But there's a but here, yeah?

Leah Stokes: Yeah, a big one.

Kris Mayes: APS came in and utilized a new law that allowed them to challenge the signatures by actually requiring the signature gatherers to come forward and testify in court that they actually gathered those signatures. Now, imagine what that meant. So clearly APS believed that it could stop the ballot initiative by requiring us to bring in, to a courtroom in Phoenix, all of these people who gathered signatures. And Leah, folks who gathered signatures, we had volunteers, we had folks who were paid. The folks who get paid to gather signatures, this is tough work. This is really difficult work. It is not easy to gather signatures and you're not getting paid a lot of money. The idea that APS would try to haul all of these people back in and then put them on a witness stand.

Kris Mayes: I mean, there were people who cried, who were challenged by the utility's lawyers who were being paid \$500 an hour who were challenged for, I don't know, some infraction that had occurred in their life 20 or 30 years ago, who got off the witness stand and cried and said, "I would never have done this if I had known that this was what they were going to do to me." And that was just awful. That behavior by a monopoly, again, a monopoly utility who was granted its status, it's just heartbreaking to see. That's what happened and God willing will never ever happen again.

Leah Stokes: So it was a pretty bloody ballot initiative fight. And what was the outcome?

Kris Mayes: Well, the outcome was Prop 127 went down to the feet and I think the lesson learned was you can't get outspent by 10 or 15 or \$20 million and expect to win. Because one of the things that the opponents of Prop 127, and in particular APS, they claimed that going to 50% renewables would increase rate payer costs. This was of course a total lie yet that was the claim that they made over and over and over again in television ads. Yeah, I think ultimately APS spent something on

the order of \$40 million to oppose 50% renewables, which was remarkable in several respects, including that now just two years later, the utility under new leadership is proposing 45% renewables by the same year.

Katharine Wilkinson: I'm sorry, did I catch that right? They spent \$40 million against a policy that two years later they now support?

Leah Stokes: Yep, pretty much. And the question we should all be asking is, where did that \$40 million come from?

Katharine Wilkinson: I know this, the customers.

Ryan Randazzo: Well, APS has always maintained that the money they spend on these efforts is money that would have gone to shareholder dividends, to pay the people largely out of state who invest in Pinnacle West, the parent company of APS. The source of all that money though clearly is the more than million electricity customers in the state of Arizona. Some people call that splitting hairs that APS says, well, it's not really customer money, it's shareholder money. And they're correct. A publicly held corporation like APS can do what it wants with its profits essentially. But people are still, as you pointed out, greatly offended that they have no choice.

Ryan Randazzo: You absolutely do need electricity in the Phoenix area in the summer for air conditioning or at least even the lowest income folks usually have a small refrigerator, ice maker and a ceiling fan. I mean, you need electricity, you have no choice who to get it from. The company who sells you that electricity takes your money and influences the elections for the people who are going to set the rates that you pay next year. I mean, it just doesn't sit well with anyone who sees the full circle there.

Leah Stokes: Yup. All these dark money campaigns got APS a lot of bad press, as they should.

Katharine Wilkinson: So after all this bad press, where are things now?

Leah Stokes: At the end of 2019, they had to shake things up. APS got a new CEO and in a stunning reversal, he said that the company would no longer spend money on regulatory races, on the elections for the corporation commission. And this fall, the corporation commission set out on a path to require utilities in Arizona to hit 100% clean electricity by 2050.

Katharine Wilkinson: I'm really glad to hear that there's been some forward progress for the people of Arizona.

Leah Stokes: Yeah, this is some real progress. But Ryan's been watching this for a long time and he still thinks that trust won't return until APS actually starts implementing policy that will meet these goals, not just issuing press releases.

Ryan Randazzo: I think utilities realized that renewables are the way of the future. The war is over, so to speak. They're going to invest heavily in solar installage in the Southwest here, but how fast are they going to do it? How fast are they going to actually close their coal plants? Are they going to try and invest in a fossil fuel plant here and there and recover that cost from customers? So it's going to take a lot of vigilance by regulators to watch those things, and the public I just don't think is going to trust them until they actually see it happen.

Katharine Wilkinson: Yeah, it's not enough just to make commitments. Utilities have to follow through on them. They have to invest in clean electricity. They have to stop investing in new fossil fuel infrastructure, and they definitely need to keep their paws out of politics.

Leah Stokes: That's right. And this isn't just a problem in Arizona. Across the country, most utilities are not stepping up to support clean energy, at least not fast enough. And in many cases they're actually blocking progress. And they're doing that with rate payer funds. To help us understand the bigger picture, I called up my friend, David Pomerantz. He's the executive director of this watchdog group called the Energy and Policy Institute, and he tracks all the ways that utilities are resisting the clean energy transition.

Leah Stokes: So, you track utilities all over the country and their efforts to undermine clean energy. Is that right? Can you tell us a bit more about that?

David Pomerantz: Most people I think understand that when it comes to the things that we need to do to solve climate change, or at least to make a lot of progress quickly on climate change, we need to switch to clean energy, we need to get off of fossil fuels. And most people understand that the fossil fuel companies, the coal companies, the big oil companies like Exxon and Chevron have been standing in the way of that. They use their lobbyists. They spend millions and millions of dollars every year on public relations. What a lot of people don't know is that their utility companies, the companies that they buy electricity and gas from, have been doing many of those same things. But I think

most people think about utilities maybe once a month when they go to pay their bills and that's about it. And because of that, we might not think about them much, but they are guilty of many of these same practices of funding climate denial efforts in the '80s and '90s, and certainly more recently lobbying against policies that could help speed up the transition to clean energy.

Leah Stokes: And so if you were going to make a list of the worst utilities, who would be on that list?

David Pomerantz: Historically some of the companies that still are really addicted to an older business model that involves them generating fossil fuels, the big power plants, would include a company called Southern Company which provides electricity to most of Georgia, Mississippi, and Alabama. They're really one of the big dinosaurs in the industry. There are a lot of people in those states that are pushing back. But that's a utility that spends an incredible amount of money on politics, which makes it really hard to sort of bring them to heel.

David Pomerantz: And then another one that you'd have to name toward the top of the list of kind of obstructionists of the clean energy transition would be Duke Energy. Duke sells more electricity than any utility company in the country, and Duke Energy similarly has really aggressively resisted climate change policy. They've aggressively resisted policies that would speed up the clean energy transition. So those are two of the really bad actors. But unfortunately it's not just them. I mean, most utilities in most parts of the country have a really bad track record of being parts of efforts to slow down the clean energy transition.

Leah Stokes: Yeah. In this episode, we're really focusing on Arizona Public Service and we'd love to get a sense from you of where you would put APS when it comes to how utilities have responded to clean energy. Are they near the top of the worst, or are they in the middle or are they at the bottom in terms of a good utility that's on the side of climate action?

David Pomerantz: In terms of where APS is now, that's to some degree an open-ended question. They are absolutely still spending money on campaigns for people who are running for the Arizona legislature, so it's not like they've sworn off of trying to influence politics in Arizona. They're certainly going to keep doing that, and that is really problematic. They certainly haven't dramatically changed their position on rooftop solar. I think they still want to see as little rooftop solar developed in Arizona as possible. The company has started to move away from building gas plants and toward building more solar power plants, large scale

solar farms and batteries. So that is a good development. But I'd say right now the jury's still out on whether they'll get to be sort of one of the leading utilities that embraces the clean energy transition and can kind of move beyond some of these really dark years that they had where they were one of the worst companies in the whole sector.

Leah Stokes: I'd love to broaden this conversation away from Arizona for a second here. Can you tell us some of the vivid stories you've come across in your work as a watchdog for utilities? What are some dramatic examples of utility corruption that you've seen?

David Pomerantz: I'll give you one example from New Orleans. The utility provider there is a division of a large company called Entergy. They wanted to build a gas plant. The gas plant itself is worth talking about because it's such a poster child for just about everything that's wrong with our energy system. They wanted to build it in a community in New Orleans that is a historically low income community and is a community that probably has less political tools to fight back than richer and wider communities. They wanted to put the gas plant also in a part of the city that is sinking rapidly because of climate change. So there's an incredibly tragic irony there that they wanted to build a big hulking fossil fuel burning polluting power plant that will cause climate change on a piece of land that is rapidly disappearing due to climate change.

David Pomerantz: So that's bad enough as is, but then Entergy has sort of an odd regulatory arrangement in New Orleans. It's one of the few places in the country where the decision about whether to allow this gas plant to be built would normally be up to what's called a public utility commission, the group of regulators that usually operates at the state level. But in this case, the decision actually was up to the New Orleans City Council. And so the New Orleans City Council held hearings. Those were public hearings that anybody could testify at in their process of whether they would decide to build this gas plant or not. And it turned out, we learned later, Entergy was very nervous about this process. They were nervous about the public showing up. The climate movement in New Orleans, like everywhere, has grown and become much more powerful in recent years, and Entergy wanted to stack the deck.

David Pomerantz: And so instead what they did was they hired a contractor, a notorious firm based just outside of DC that's done a lot of dirty things on behalf of the fossil fuel industry, and that contractor hired a subcontractor and that

subcontractor basically paid out of work actors who were in New Orleans a few bucks, I think it was 50 bucks, to show up and wear a t-shirt in favor of the gas plant that Entergy had been wanting to build. I think they got more money, something like \$200, if they had a speaking role, which basically meant walking up to the podium and testifying on behalf of Entergy for why they thought this gas plant was such a good idea.

David Pomerantz: And so, this is what is classically referred to as astroturfing because it's fake grassroots. So Entergy's contractors basically paid all these people to show up and pretend to support a gas plant that they didn't know the first thing about. And then it didn't stop there. I mean, a bunch of sort of "more legitimate-seeming testimony" on behalf of this gas plant came from local charities and nonprofits. While when the EPI dug into those charities and nonprofits, we saw that almost all of them were being paid by Entergy's charitable arm. So really this is a classic case where a utility wanted to build a fossil fuel plant, knew that it would be unpopular and tried to stack the deck by paying to rig the system. And then unfortunately in this case they were successful.

Leah Stokes: Do you think the shady behavior from utility companies is going to go away anytime soon?

David Pomerantz: When you talk to people privately, there's broad understanding that this utilities' behavior when it comes to dirty politics and stifling the clean energy transition, most people in the industry know that it's bad and want to see better, but really we're talking about unfortunately executives in a lot of these companies who are in their 60s, toward the end of their careers. That's not to say that older people can't make great forward thinking progressive decisions, and some of them are, but most of them are at the tail end of their careers and not really thinking very smart about sort of what the next 10 years should look like and how the utility can be positioning for the future. They're sort of coasting on the way out. And so unfortunately, decisions by just a handful of people in the C-suites of these companies can mean dirtier energy and more expensive energy for millions and millions of Americans and can slow down our effort to address climate change. So we really need to get those folks out of the way and move on toward a much brighter future for the industry and for all of us.

Katharine Wilkinson: I think there's a really important point here about what really are the halls of power for climate decision-making. I think a lot of times we

think, oh, that's the House of Representatives, that's the Senate, that's the White House, maybe at state capitols. But actually there are halls of power of climate decision-making all over this country and a lot of them, we can actually have a lot of influence in just as citizens, as participants in the democratic process.

Leah Stokes: Yeah, exactly. There are these commissions, some are elected, some are appointed, but the public can influence them. That's one of the real bright spots in this story. When APS was attacking solar and they wanted to make it basically impossible to install new rooftop solar, that's when more people showed up at the commission than ever before in it's 100 year history. People protested and they went to these boring meetings and it made a huge difference because APS didn't get the outcome that they wanted.

Katharine Wilkinson: I think that's such a great story to illustrate what it means to be a climate citizen. It's something I've been thinking about a lot in this election season. As we've really been focused on the top of the ballot, well, in Georgia, we've also had seats for the public service commission on the ballot. And sometimes I just worry that by the time people get there, they're like, "I don't even know what that is. I don't know who these people are, why would I even tick a box?"

Leah Stokes: Yeah. And these electric utilities, they have so much power. They get to decide whether or not we put a dirty fossil gas plant in a community of color. They get to decide whether or not people can put solar on their roof if, for example, they're influencing their regulator. And so we really have to pay more attention to these companies and to their regulators.

Katharine Wilkinson: So Leah, you've spent many hours of your life diving into the corruption, the weeds, the good, the bad, the ugly of utilities in this country. I mean, what's the takeaway that we really need to have? What is it that you really want people to know about a topic that can feel pretty obscure even though it's super present in our everyday lives?

Leah Stokes: Well, I think the biggest takeaway for me is the fact that these are monopolies. We've been talking about electric utilities, but it's also the same for gas utilities. These are companies that are selling you kind of an essential service, right? You have to buy electricity and unless you've already electrified your home, you're buying gas. These companies get to use the money that you're paying them just because you need to have the internet or you need to put your food in a refrigerator, you need to wash your clothes in a laundry machine. They

take all that money and they can do whatever they want with it. And I think we have to question, why is that? Should that be legal? Should electric utilities be able to take money from customers and spend it in politics? And I think the answer is no, that should not be legal.

Katharine Wilkinson: I mean, I really don't feel good about it either. So, what's the option here, Leah? I mean, what can we do?

Leah Stokes: Well, changing a utility's ability to spend money on politics, including at their regulator, that would be a really big change. And it would probably require something like a lawsuit that would wind its way to the Supreme Court. And we could hope for that outcome. But as you know, the Supreme Court is not exactly in a great place right now. So that's a tough strategy. But one policy change that could really even the playing field between utilities and the public interest would be something called an intervener compensation program.

Leah Stokes: That's just a fancy way of saying let's pay advocates like environmental groups and citizen groups to come and intervene at these commissions in the public interest so that they can afford to show up for these fights and contest all that money and power that the utility has because we've talked about the unlimited money that the utility really has for these fights. An intervener compensation program is a way of evening that out by making sure that advocates have money too. This policy right now only exists in a handful of states, but it could come to a bunch more if groups started pushing for it. And we might even be seeing one happening federally in 2021.

Leah Stokes: But more broadly, what we can see in the Arizona case is that public pressure matters. Saying to our electric utilities or our gas utilities or their regulators that oversee them, saying to these bodies of power, "Hey, what you're doing is not okay. You need to do something different." That can really change things because the end of the story in Arizona, it's a happy ending. This company got so much bad press because reporters like Ryan Randazzo showed up and former commissioner turned activist, Kris Mayes, showed up and people like David Pomerantz, through his watchdog group, he showed up, and they all said, "This is not okay." And so really everyday people can get involved and put pressure on these companies and regulators. And that can make a difference.

Leah Stokes: Thanks to everyone for listening to our replay episode, The ‘Darth Vader’ of Electric Utilities.

Katharine Wilkinson: You know, Leah, it was super interesting to look back at this story, and I think a big question I have is, where are we now? We know Kris Mayes won for attorney general, but how far have we come since this episode aired back in January 2020?

Leah Stokes: Well, electric utilities still have a long way to go to really clean up their act, many are still resisting the transition to renewable energy. As I mentioned, that Sierra Club report that I helped author, we looked at the pledges that these utilities are putting forward, and the fact is – they’re empty. They basically mean nothing. If a utility has a pledge, just say they’re gonna get to net zero, or if they don’t have a pledge, then you look at what they’re doing. Both groups of utilities look exactly the same.

Katharine Wilkinson: I think it sounds like they should probably listen to this episode, and maybe learn.

Leah Stokes: And you know, the cool thing is there’s a new law – it’s called the Inflation Reduction Act, and it includes hundreds of billions of dollars to help utilities clean up their act.

Katharine Wilkinson: Sorry, the Inflation Reduction Act? What? I’m not sure I’ve heard of it.

Leah Stokes: Yeah, I don’t know if we’ve mentioned it a few times. Well, this new federal law, it includes tens of billions of dollars to retire dirty coal plants, hundreds of billions to help folks build new renewable energy projects. It’s a really big deal.

Katharine Wilkinson: It’s a big deal and we keep coming back to it because there are so many components in this landmark legislation, and utilities accessing these clean energy tax credits is such a no-brainer. And the law also allows municipal and cooperative utilities, tribes and nonprofits to get direct payments for clean energy as well. There’s a lot.

Leah Stokes: That’s right. This law is a total game changer and utilities can’t keep putting forward the same old plans under the old world before the Inflation Reduction Act and saying, “Hey is this good enough?” It’s not. You gotta get with

the program, stop building dirty gas plants, retire your dirty coal plants, and move towards the clean energy future.