

SUPREME COURT OF ARIZONA
En Banc

JANET K. REGNER,)
) Arizona Supreme Court
) No. CV-00-0302-AP/EL
 Plaintiff/Appellant,)
) Maricopa County Superior
 v.) Court No. CV2000-013127
)
)
 BETSEY BAYLESS, Secretary of)
 State for the State of Arizona;)
 and ARIZONANS FOR CONSUMER)
 CHOICE AND FAIR COMPETITION,)
)
) O P I N I O N
 Defendants/Appellees.)
)
)
 _____)

Appeal from the Superior Court of Arizona
in Maricopa County
The Honorable Jeffrey S. Cates
AFFIRMED

OSBORN MALEDON, P.A.
by Andrew D. Hurwitz
by G. Murray Snow
and Joan S. Burke
Attorneys for Janet K. Regner Phoenix

Janet Napolitano, The Attorney General
by Thomas I. McClory, Assistant Attorney General
Attorney for Betsey Bayless, Secretary of State Phoenix

LAW OFFICES OF NEIL VINCENT WAKE
by Neil Vincent Wake
and Linda D. Skon
Attorneys for Arizonans for Consumer Choice
and Fair Competition Phoenix

Janet Napolitano, The Attorney General
by W. Scott Bales, Solicitor General
Amicus Curiae Phoenix

M c G R E G O R, Justice

¶15 Appellant Regner brings this appeal challenging the

superior court's decision that Proposition 108, a citizen-sponsored ballot initiative, conforms to the single-subject requirement of Article XXI of the Arizona Constitution. Exercising jurisdiction pursuant to Arizona Revised Statutes (A.R.S.) section 19-122.C, we ordered on August 28, 2000 that Proposition 108 remain on the ballot, with this opinion to follow.¹

¶6 Article XXI of the Arizona Constitution requires that "[i]f more than one proposed amendment shall be submitted at any election, such proposed amendments shall be submitted in such a manner that the electors may vote for or against such proposed amendments separately." ARIZ. CONST. art. XXI, § 1. As we noted in another opinion filed today, "we consistently have examined initiatives challenged under the single-subject rule to determine whether their provisions are sufficiently related to a common purpose or principle that the proposal can be said to 'constitute a consistent and workable whole on the general topic embraced,' that, 'logically speaking, . . . should stand or fall as a whole.'" *Korte v. Bayless*, No. CV-00-0308-AP/EL, slip. op. at ¶ 10 (Ariz. Sup. Ct. Jan. 10, 2001) (quoting *Kerby v. Luhrs*, 44 Ariz. 208, 221, 36 P.2d 549, 554 (1934)).

¶7 Proposition 108 would amend Article XV of the Arizona Constitution to provide that, in regions in which

¹ At the November 2000 general election, the voters rejected Proposition 108. ARIZONA SECRETARY OF STATE, STATE OF ARIZONA OFFICIAL CANVASS at 16 (Nov. 27, 2000).

telecommunications consumers have a choice of providers, telecommunications rates will be determined by competition rather than by the Arizona Corporation Commission (Commission), as they are now. The Commission would determine whether competition among telecommunications providers exists in a particular area. Consumers located in a region determined to have competition who do not themselves have a choice of providers would be charged the same rates as similar consumers who had a choice. In areas in which no competition among providers exists, the Commission would continue to set rates, but would no longer be required to use only the fair value method in setting them.

¶18 Appellant Regner contends that Proposition 108 includes two impermissibly combined amendments: one that would deregulate telecommunications in competitive areas and another that would eliminate the fair value requirement in those areas still regulated by the Commission. We do not find this construction of the proposition persuasive. Although the proposition involves two provisions, both of these provisions serve the purpose of allowing competition, where possible, to set telecommunications rates. In areas in which direct competition exists among providers, Proposition 108 would remove the Commission from the ratemaking process. Where no direct competition exists, Proposition 108 would allow the Commission to use measures other than fair value in setting rates, an approach proponents argue is made necessary by

the difficulty of using fair value in a partially deregulated system.

¶19 The components of Proposition 108 represent an attempt to create a "consistent and workable" proposal on the subject of telecommunications rate setting, and both advance the common purpose of allowing competition to set telecommunications rates where possible. Proposition 108 does not violate the single-subject requirement of Article XXI. We affirm the decision of the trial court.

Ruth V. McGregor, Justice

CONCURRING:

Thomas A. Zlaket, Chief Justice

Charles E. Jones, Vice-Chief Justice

Stanley G. Feldman, Justice

Frederick J. Martone, Justice