

## Utility Regulators Say They Can't Get Texts

Ryan Randazzo | May 29, 2015



*Barbara Lockwood, general manager of regulatory policy at APS, received more than 50 texts from regulator Bob Stump from July to September 2014. (Photo: Cheryl Evans/The Republic)*

Arizona's utility regulators say they have done all they can to comply with a public records request but can't access old text messages between a former chairman, a dark money group and the state's biggest utility.

The Washington, D.C.-area Checks and Balances Project requested the text messages from commissioner Bob Stump, who served as chairman of the Arizona Corporation Commission until earlier this year.

The group found Stump communicated frequently with Arizona Public Service Co. as well as a political group that is widely thought to be funded by APS.

The Checks and Balances Project wants the full content of the text messages, but the commission says that data is not available from Verizon Wireless.

The commission had its newly hired outside counsel write to the group saying the utility regulators have provided all they are able in the records request.

"Let me assure you that the commission has made extensive efforts to comply in full with the project's requests and believes that in fact it has complied fully under the law," attorney David Cantelme wrote for the commission to Checks and Balances.

He said the commission has been unable to get the text messages from last year from Verizon.

Verizon, however, hasn't directly answered the question of whether Stump's text messages are available. The phone company answered the state regulators by sending along a letter from 2013 written in response to a U.S. Senator's questions about records retention. Verizon also declined to directly address the issue with *The Arizona Republic*.

Cantelme also defended Stump's frequent texting with APS and the dark money group by noting that Stump texted often with other parties as well, including officials at the state consumer advocate, solar and energy conservation groups.

In its rebuff of the Checks and Balances Project, Cantelme questions whether the information being sought under public records law could be used for commercial purposes.

Cantelme notes that the Checks and Balances Project is a nonprofit largely funded by Renew American Prosperity, a 501(c)(4) organization that does not disclose its donors.

Public records laws make a distinction between providing public records for commercial and non commercial purposes.

"Thus, I would invite your client to alleviate any concern over whether the project is advancing the commercial interests of its true donors by revealing their full identities," he wrote.

Stump made a similar criticism of the Checks and Balances Project in his initial response to the group's investigation of his texts, noting that they themselves are a dark money group, a name that references the fact that the donors of such political groups are not disclosed.

Checks and Balances questioned Stump because their review of his texts showed he messaged Scot Mussi, president of the Arizona Free Enterprise Club, in June and July 2014, ahead of the Aug. 26 primary election.

Arizona Free Enterprise Club is a dark money group that spent heavily to help elect Tom Forese and Doug Little to the regulatory commission last year.

Forese and Little would not have been allowed to talk to Mussi about the money he was directing to benefit their campaigns, though they all communicated with Stump. State election officials are looking into the "nexus" of communications to determine if election rules were followed.

APS is widely believed to have given money to the Free Enterprise Club, though the utility has repeatedly declined to comment on its political activities.

About one-third of the stockholders of Pinnacle West Capital Corp., APS' parent company, disapprove of that secrecy, according to a recent shareholder initiative.

The nonprofit group **As You Sow**, which encourages corporate responsibility, launched the initiative that would require Pinnacle West to report fully its political spending and activities. Supporters said they hoped to draw interest to the matter of APS donating to the politicians who set the electric company's prices.

The initiative failed, but 30.8 percent of stockholders, representing about \$1.4 billion in Pinnacle West shares, approved of the initiative, according to **As You Sow**.

"That's a great result," **As You Sow's** energy program manager, Amelia Timbers, said Friday. "I hope that Pinnacle West gets the message that shareholders are not supportive of their political activities."

**As You Sow** ran the initiative on behalf of socially responsible investment firms First Affirmative Investments and Calvert Investments.

"Every dollar Pinnacle West spends on lobbying to slow climate change mitigation is a dollar our shareholders lose," said Gabriel Thoumi, Calvert's senior sustainability analyst. "Pinnacle West reported spending \$9 million on lobbying between 2013-2014, which is about 8 cents a share. Our shareholders want that money in their pockets, not in the pockets of lobbyists."