



Conflicted!

Texas Railroad Commissioners 'Self-Police' Their Self-Interests

*by Texans for Public Justice
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Texas Railroad Commissioners 'Self-Police' their Self-Interests

“The companies self-police this, we self-police it,”

–Railroad Commissioner Barry Smitherman to lawmakers, 12/19/2012

“I think we are self-policing,”

–Railroad Commissioner Christi Craddick to lawmakers, 12/19/2012

“Trust, but verify.”

–President Ronald Reagan to the Russians, 1987

“[Rigged](#),” our 2016 study analyzing \$11 million in political contributions to the three sitting Texas Railroad Commissioners, found that 60 percent of that money came from the oil and gas industry that the commissioners regulate (the same industry supplied 22 percent of the money that Greg Abbott raised for his 2014 gubernatorial election). This helps explain how the Commission earned its reputation as a “captured agency” that effectively serves the industry that it is supposed to regulate. The commissioners’ overwhelming dependence on industry funds conjures up images of energy titans with business pending before the commissioners “sweetening the pot” by writing hefty political checks.

Industry funding of the Commissioners, combined with their weak regulatory touch and the agency’s nonsensical name (it has nothing to do with trains), makes the Railroad Commission especially controversial. The Texas Sunset Advisory Commission typically reviews state agencies every 12 years to see if they provide good taxpayer value, need reform or should be abolished. Earning poor grades, the Railroad Commission now is undergoing its [third Sunset review](#) since 2010. Reviewing the agency prior to the 2013 session, the Sunset staff recommended three reforms to address perceived conflicts: 1. Limit candidate fundraising to an 18-month period surrounding their elections (instead of throughout most of their six-year terms);¹ 2. Require the agency to adopt a commissioner recusal policy; and 3. Prohibit parties with contested commission cases from contributing to the commissioners.²

Pushing back in a December 2012 legislative [hearing](#) on those Sunset recommendations, two commissioners told lawmakers that “self-policing” commissioners reject contributions from parties with cases before them. That self-policing testimony was vague (Appendix 1 contains a transcript of that hearing). The commissioners seemed to suggest that their *ad hoc* self-policing does not affect Railroad Commission candidates before they take office, nor most Railroad Commissioners elect. The testimony did not make clear if sitting commissioners take money from an interested party the day before a case formally opens or the day after it closes. Finally, the testimony did not address if commissioners will take money from lawyers or law firms that have cases pending at the agency. At a minimum, the testimony suggested that sitting commissioners do not take campaign money from those who have cases pending at the agency.

A Russian proverb that President Ronald Reagan invoked with Russian arms negotiators says, “Trust, but verify.” This report uses two types of case studies to gauge how stringently Railroad Commissioners “self-police” themselves. First it examines political contributions surrounding six major gas utility rate-hike decisions made by the commissioners. Next this report examines the contributions of two companies that the Railroad Commission investigated to determine if they triggered earthquakes by injecting fracking wastewater deep below the ground in North Texas.

Feeding Meters

Gas Utility Contributions & Consumer Rate Hikes

Railroad Commissioners wield one of their most formidable powers when they determine the extent to which a local natural gas monopoly can—or cannot—raise rates on consumers. When a gas utility seeks to raise rates, it consults with the local cities whose citizens are affected. If those parties cannot agree, Railroad Commission hearing examiners weigh the evidence and recommend a rate that assures the utility a reasonable profit (or “revenue requirement”). The Railroad commissioners then issue a “final order” that settles the dispute.

Some cities that clash with gas utilities form coalitions to jointly advocate lower rates. One such coalition is the [Atmos Cities Steering Committee](#). In 2010 that committee published an [analysis](#) of 10 major gas-rate cases over 10 years.³ The “Railroad Commission consistently overrules their own examiners,” the report concluded, “and in almost every case, the effect is to favor the utility’s interests over those of the consumer.”⁴ In overruling their examiners (who twice recommended rate *decreases*), the commissioners cost consumers a total of \$156 million a year, the report said. The latest staff Sunset [report](#) says that these gas-rate cases could be performed more professionally, more transparently and more fairly by the Public Utility Commission, whose gubernatorial appointees don’t take campaign funds.

It must be tempting for utility companies to curry favor with those deciding rate cases worth millions of dollars. For that reason, gas-utility contributions should be high scrutiny for self-policing commissioners. The Atmos Cities Steering report did not address political contributions that the beneficiary gas utilities may have given to the rate-hiking commissioners (who are no longer in office). This report identifies six big gas-rate cases that the commission tackled after November 2010, when recently retired Commissioner David Porter was elected. In these six cases filed by Atmos Energy and Houston-based CenterPoint Energy, the commissioners approved annual revenue increases ranging from \$4.6 million to a whopping \$26 million—for a grand total of \$73 million in annual revenue increases. Since this is the *annual* amount of the rate increases, these six cases will cost consumers a total of \$730 million over 10 years.

Atmos and CenterPoint both retained the same outside law firm for all six of these cases. Austin-based [Parsley Coffin Renner](#) specializes in representing utilities before the Public Utility Commission and the Railroad Commission.⁵ In fact, our [“Rigged” report](#) ranked Parsley Coffin among the top contributors to the Railroad Commissioners. The seven Railroad Commissioners who have run the agency since 2010⁶ have taken \$153,000 from the Parsley Coffin firm (including contributions raised as candidates before taking

Wayne Christian’s Gas Utility-Case Cash

(Sept. 2013 through Dec. 2016)

Company PAC & Executives	Amount
Atmos Energy	\$10,000
Parsley Coffin Renner	\$15,000
CenterPoint Energy	\$4,002
TOTAL	\$29,002



office). During that time, those commissioners also took \$143,250 from Atmos' PAC and executives and \$94,654 from CenterPoint sources. Altogether the commissioners took a total of \$390,904 from the three entities that had a keen interest in the rate cases analyzed here. The same sources gave another \$29,002 to the Railroad Commission campaign of Wayne Christian, whom voters elected last fall to replace retiring Commissioner Porter.

The two large tables in Appendix 2 and 3 itemize Atmos, CenterPoint and Parsley Coffin contributions to the commissioners in chronological order alongside the dates when the six major rate cases were pending before the commission. With Atmos, CenterPoint and Parsley Coffin continually bringing these and other matters before the commission, the tables also show contributions that they made in between the six big rate cases studied here.

Commissioner Christi Craddick testified in December 2012 that certain energy companies with cases pending before the commission told her that they would *not* contribute to a commissioner-elect who would take office early (as she had just done on December 17, 2012) but might give to a commissioner-elect taking office at the normal time in the new year. This doesn't seem like much of an ethical distinction, unless the parties knew that the sitting commissioners would resolve a pending case in the two or three months that typically separates a new commissioner's election from her swearing in. Our first case wades into such a transition period.

Atmos Energy filed our first rate case, [No. 10000](#), on September 17, 2010, when David Porter was the Republican nominee almost certain to win that November's election. Within weeks of that case filing, eight Atmos executives funneled a total of \$4,250 to Porter (see the "Big Atmos Energy Rate Cases" table in Appendix 2). Representing Atmos in the case, Parsley Coffin also kept busy writing political checks. It gave \$5,000 to GOP nominee Porter a month before it filed the case, followed by another \$5,000 to commissioner elect Porter as the case was pending in December 2010. Meanwhile, the firm gave \$10,000 to sitting commissioner Elizabeth Ames Jones two weeks after the case filing. Commissioners Jones and Porter signed the final order in the case in April 2011, granting Atmos a \$26 million annual revenue increase.

Note that Commissioner Craddick's testimony did not address contributions by lawyers involved in commission cases. She did say, however, that the professional ethics of the attorneys then serving on the commission (herself and Smitherman) discouraged them from

engaging in private, *ex parte* communications with parties to commission cases outside of formal hearings. Given that courts equate money with speech, it's interesting to note that the Parsley Coffin firm speaks to the commissioners outside the formal framework of rate-case hearings with tens of thousands of dollars. The firm distributes these funds even though three of the firm's eight [listed attorneys](#) must have witnessed commissioner self-policing in action during their earlier stints as Railroad Commission hearings examiners.⁷ Nonetheless, Parsley Coffin routinely writes big checks to the very commissioners whom it is actively persuading to jack up gas rates on Texas consumers.

Two more big Atmos rate cases progressed simultaneously. Atmos filed case No. [10170](#) at the end of May 2012 and, three weeks later, filed case No. [10174](#). The day of the second case filing, Atmos' outside law firm gave \$5,000 to Commissioner Smitherman, who collected another \$1,000 from the firm in October (when one of the cases was still pending). Parsley Coffin also gave \$5,000 to Commissioner Porter when both cases were pending that September.

Nor was this firm the only interested party in the game. A week after filing the second case, Atmos Energy PAC gave \$5,000 to Commissioner Barry Smitherman, who then had two major Atmos case before him. On October 2, 2012 Commissioners Buddy Garcia, David Porter and Barry Smitherman issued their final order in case No. 10174, granting Atmos an annual revenue increase of \$6.6 million. On December 4th of that year, the same commissioners closed case No. 10170, granting Atmos an annual revenue increase of \$23.5 million. Two weeks later Commissioner Smitherman—who had just taken a total of \$11,000 from a utility and law firm with two big cases before him—testified to lawmakers that “the companies self-police this, we self-police it.”

CenterPoint filed the first of its big rate cases examined here, No. [10038](#), on December 3, 2010—one day after its outside counsel gave \$5,000 to Commissioner-elect David Porter. Over the preceding fall months, Parsley Coffin also had distributed \$10,000 to Commissioner Elizabeth A. Jones and another \$5,000 to candidate Porter. Within a week of the filing, five CenterPoint executives gave a total of \$1,468 to Commissioner-elect Porter.⁸ During the legislative session's fundraising blackout in April 2011, Commissioners Jones and Porter issued a final order in that case, approving an annual revenue increase of \$4.6 million. When the blackout ended in June, CenterPoint's PAC, executives and outside counsel gave Commissioner Porter \$9,750 more, including a \$636 PAC lunch expenditure at Houston's Coronado Club.



CenterPoint’s next big case (No. [10182](#)) stretched from July to December of 2012. In the three months preceding that filing Parsley Coffin moved \$10,000 to Commissioner Smitherman and \$5,000 to candidate Craddick (who took office shortly after the commissioners issued the final order in this case). While the case was pending, the firm gave \$5,000 to Commissioner Porter, another \$1,000 to Smitherman and \$6,000 to GOP nominee Craddick. During the case, CenterPoint executives also gave Commissioner Smitherman \$1,250 and nominee Craddick \$6,000. Commissioners Garcia, Porter and Smitherman issued a final ruling in the case on December 4, 2012, granting an annual revenue increase of \$6.2 million. Days later, a CenterPoint vice president gave \$1,000 to Smitherman, who briefed lawmakers on his “self-policing” policies two weeks later.

CenterPoint rate case No. 10432 mostly played out during the 2015 session’s fundraising blackout. In early December, before the blackout took effect, Parsley Coffin delivered two \$10,000 checks to Commissioners Craddick and Porter. CenterPoint filed the case during the blackout in March 2015. When the blackout ended Parsley Coffin dashed off another \$5,000 to Commissioner Porter in late June. Commissioners Craddick, Porter and Ryan Sitton issued the final case order in August, approving an annual revenue increase of \$4.9 million. The following month, CenterPoint’s PAC and executives moved \$6,200 more to Commissioner Craddick and \$7,900 to Commissioner Porter.

In late 2012 Commissioners Craddick and Smitherman testified that Railroad Commissioners “self-police” themselves against campaign-funding conflicts. While fuzzy on many details, their testimony suggested, at a minimum, that sitting commissioners do not take money from parties to cases pending before the agency. An analysis of just six gas-rate cases reveals that this self-policing turns a blind eye to tens of thousands of interested dollars.

**Interested Party Contributions
To the Railroad Commission
While Six Gas Cases Were Pending**

Interested Party Contributor	Amount to Winning RRC Candidates	Amount to Sitting Commissioners	TOTALS
Atmos Energy	\$12,250	\$5,000	\$17,250
CenterPoint	\$3,468	\$1,250	\$4,718
Parsley Coffin	\$11,000	\$26,000	\$37,000
TOTALS	\$26,718	\$32,250	\$58,968

The table in Appendix 2 conservatively summarizes the findings on these gas-rate cases. It excludes the double or triple counting that could occur when more than one of the gas cases ran simultaneously (Parsley Coffin represented Atmos and CenterPoint in *three* of the studied cases in November 2012, for example, when it gave Commissioner Porter \$5,000).⁹ It restricts itself to just the contributions that interested parties made *while* one or more of their cases were pending (it excludes contributions made a day before a case filing or the day after it closed). Taking this conservative approach to just six rate cases, sitting commissioners took a total of more than \$6,000 from Atmos and CenterPoint while they had one or more of the six cases pending. With at least one case pending, these utilities gave a total of more than \$15,000 more to winning commission candidates. And during the time that Parsley Coffin served as outside counsel in these six cases, the firm gave winning commission candidates \$11,000 and gave another \$26,000 to sitting commissioners. No matter how you slice this Swiss cheese, commissioner “self-policing” didn’t perform as advertised to the legislature.

...self-policing turns a blind eye to tens of thousands of interested dollars.

The five tables on the following page breakout these pending-case contributions to individual commissioners. Their numbers vary considerably. Commissioner Smitherman was the only sitting commissioner to directly take money from the utilities when the studied cases were pending. With two rate cases pending in June 2012, the Atmos PAC gave \$5,000 to Commissioner Smitherman. A month later he picked up \$1,250 from two executives at CenterPoint, which had a case pending. Less than six months later, Commissioner Smitherman would give lawmakers the impression that such conflicts don’t happen because, “The companies self-police this, we self-police it.”

Commissioner David Porter, who did not chime in during his colleagues’ 2012 self-policing



testimony, had the highest overall haul. He raked in almost \$21,000 from the three interested parties when they had at least one of the studied cases pending. Interested parties gave half of this money to *candidate* Porter, who did not take money as a commissioner from the utilities when these cases were pending. With cases pending, Commissioner Porter did take \$10,000 from the outside counsel to the two utilities.

Elizabeth A. Jones' Gas-Case Funds

Interested Parties	Candidate Jones	Commissioner Jones	TOTALS
Atmos/CenterPoint	\$0	\$0	\$0
Parsley Coffin	\$0	\$10,000	\$10,000
TOTALS	\$0	\$10,000	\$10,000

Barry Smitherman's Gas-Case Funds

Interested Parties	Candidate Smitherman	Commissioner Smitherman	TOTALS
Atmos/CenterPoint	\$0	\$6,250	\$6,250
Parsley Coffin	\$0	\$6,000	\$6,000
TOTALS	\$0	\$12,250	\$12,250

David Porter's Gas-Case Funds

Interested Parties	Candidate Porter	Commissioner Porter	TOTALS
Atmos/CenterPoint	\$5,718	\$0	\$5,718
Parsley Coffin	\$5,000	\$10,000	\$15,000
TOTALS	\$10,718	\$10,000	\$20,718

Christi Craddick's Gas-Case Funds

Interested Parties	Candidate Craddick	Commissioner Craddick	TOTALS
Atmos/CenterPoint	\$10,000	\$0	\$10,000
Parsley Coffin	\$6,000	\$0	\$6,000
TOTALS	\$16,000	\$0	\$16,000

Ryan Sitton's Gas-Case Funds

Interested Parties	Candidate Sitton	Commissioner Sitton	TOTALS
Atmos/CenterPoint	\$0	\$0	\$0
Parsley Coffin	\$0	\$0	\$0
TOTALS	\$0	\$0	\$0

Candidate Craddick took \$10,000 from the utilities when they had cases pending and another \$6,000 from their outside counsel during the pendency of the cases. Craddick did not take any funds from any of the associated parties when cases were pending. Finally, Ryan Sitton did not take any funds from the parties when the cases were pending.

Because just six gas-rate cases were studied (some running concurrently), and because of the commissioners' staggered terms, these data on individual commissioners may not lend themselves to sweeping conclusions about their self-policing policies. For example, Elizabeth Ames Jones could not have taken any money associated with these pending cases as a candidate for the simple reason that she already was in office when the first of these cases was filed. At the other end of the spectrum, Ryan Sitton would have been hard pressed to take in money associated with these cases after he took office in January 2015. Although he participated in the last of these cases, it played itself out almost entirely during the fundraising blackout surrounding the 2015 session.

The data do reveal that sitting Commissioner Smitherman took \$6,250 in utility money when those utilities had cases pending in 2012, despite telling lawmakers that same year that, "The companies self-police this, we self-police it." They show that Commissioners Porter

and Smitherman took \$16,000 from Parsley Coffin while it was serving as outside counsel in the rate cases. And candidates Craddick and Porter took almost \$27,000 from the utilities and their law firm when they had commission cases pending. The data also suggest that Commissioner Smitherman could have been an aberration in taking pending-case money from named parties to a pending case as a sitting commissioner. The next case study finds such a conclusion to be premature.

Six Cases Resulting in \$72 Million in Rate Hikes

Gas Utility	Case No.	Annual Revenue Increase Approved
Atmos	10000	\$26,000,000
	10170	\$23,492,932
	10174	\$6,579,919
CenterPoint	10038	\$4,600,000
	10182	\$6,200,000
	10432	\$4,900,000
TOTAL		\$71,772,851

Fracking Aftershocks

Fluid Injections of Waste & Money Rock Commissioners

Mitchell Energy and Development had helped pioneer commercially viable fracking in North Texas' Barnett shale by the late 1990s. When natural gas prices picked up in the early 2000s, many operators joined the gold rush and Devon Energy bought Mitchell for \$3.5 billion. The fracking revolution unlocked staggering amounts of oil and gas by forcing large volumes of water, sand and chemicals into shale gas formations. Operators dispose of some of the waste from conventional and fracked wells by injecting it into deep disposal wells. The state's top seismic experts have concluded that these injections triggered at least some of the earthquakes that first began to roil North Texas' once-stable plains in 2008. Meanwhile, the Texas Railroad Commission, which regulates the injection wells, publicly questioned or denied that those injection wells trigger quakes.

Last November the *Dallas Morning News* published a major investigation into how the agency stubbornly stuck to a different script on quake causation. "[Seismic Denial? Why Texas Won't Admit Fracking Wastewater is Causing Earthquakes](#)" takes an in-depth look at how the commission continually sided with the industry against the scientists at the public's expense.

One battleground for this debate is the small town of Azle northwest of Fort Worth, which quakes began to rattle in November 2013. While such quakes had previously been linked to disposal wells through proximity and timing, Southern Methodist University seismologists wanted to go a step farther by calculating if the wells created enough pressure to trigger quakes. They focused on two wells closest to Azle operated by EnerVest, Ltd. and XTO Energy, Inc. XTO, a unit of ExxonMobil, voluntarily provided injection data to the scientists, who [concluded](#) in an April 2015 paper that the injections did, in fact, generate sufficient pressure to trigger quakes.

The *Morning News* noted that Railroad Commissioners take hundreds of thousands in political contributions from the industry that they regulate. It singled out a \$20,000 contribution that Commissioner Ryan Sitton took from EnerVest's CEO in September 2015, when the agency was investigating whether or not EnerVest and XTO injection wells triggered the Azle earthquakes. The newspaper subsequently [reported](#) that XTO parent ExxonMobil was a client of Sitton's energy service company, Pinnacle Advanced Reliability Technologies. Yet Sitton did not disclose that relationship nor recuse himself from the case. "The notion that these dollars would influence me to do anything other than what I thought was the right thing to do is preposterous," Sitton told the *Morning News*.

Yet it wasn't just \$20,000 to Commissioner Sitton. From 2009 through April 2016, EnerVest's chair and top executives gave \$101,910 to sitting commissioners or winning Railroad Commission candidates. During that period Exxon and XTO PACs and executives gave \$44,500 to commissioners or winning candidates. Before the quakes, commissioners rarely received contributions exceeding \$1,000 from EnerVest, XTO or Exxon sources. None of the exceptions listed in the table below exceed \$5,000. After the quakes began in 2008, however, EnerVest CEO John B. Walker made four big contributions ranging from \$7,000 to \$20,000. Meanwhile, candidate Ryan Sitton and Commissioner David Porter each collected a \$12,500 check from ExxonMobil PAC. For the commissioners, the shaking earth seemed to shake loose bigger contributions.

Large Pre-Tremor Railroad Contributions From EnerVest, XTO and Exxon Sources

Date	Amount	Contributor	Recipient
2/4/03	\$5,000	EnerVest Chair Jon Rex Jones	V. Carrillo
1/29/04	\$3,000	XTO Energy PAC	V. Carrillo
10/11/05	\$2,500	EnerVest Chair Jon Rex Jones	V. Carrillo
11/9/05	\$5,000	Retired Exxon Pres. Morris Foster	E.A. Jones
11/2/06	\$5,000	Retired Exxon Pres. Morris Foster	E.A. Jones
9/28/07	\$5,000	Retired Exxon Pres. Morris Foster	E.A. Jones
2/29/08	\$5,000	EnerVest Chair Jon Rex Jones	V. Carrillo

During 2015 the Railroad Commission conducted "show-cause" hearings to determine if the EnerVest and XTO injection wells helped trigger earthquakes. While these injection-well cases were pending, EnerVest principals gave money to all three sitting commissioners. Besides the aforementioned \$20,000 that Commissioner Sitton took from EnerVest CEO John Walker during this period, Walker gave \$5,000 to Commissioner Craddick while that case was pending. EnerVest Chair Jon Rex Jones also gave \$1,000 to Commissioner David Porter as the commission weighed that case. On November 3, 2015, the three "self-policing" commissioners who had taken tens of thousands of dollars from Exxon, XTO and EnerVest ruled that no evidence linked their injection wells to the sudden spate of earthquakes surrounding Azle.

In recent years Railroad Commissioners took another \$47,500 from EnerVest Chair John Rex Jones' brother and son. A 2009 *Oil and Gas Investor* [article](#) reported that EnerVest Chair Jones spends much of his time on EnerVest business. Jones also chairs the board of Jones Energy, Ltd., run by son Jonny Rex Jones. Meanwhile, the elder Jones' brother, AV Jones, runs the family's Van Operating oil company. Those two family members also gave a pile of money to the obliging Railroad Commissioners.

In its defense, the Railroad Commission told the newspaper that it imposed new regulations on disposal wells and negotiated with companies to reduce the volume or depth of some injections. "But the agency held these negotiations without informing residents," the *Morning News* reported, "and without holding any company publicly accountable, leaving Texans uncertain about why the ground is moving beneath their feet."

Conclusion

This report reviewed just six gas-rate cases and two injection-well seismology cases to gauge how effectively Railroad Commissioners self-police themselves against conflicts of interest. The 2012 legislative testimony of Commissioners Craddick and Smitherman did not precisely define the parameters of these self-policing policies. Yet, no matter how defined, a small sampling of just a few of the commissioners' high-profile and high-impact cases reveals that commissioner self-policing is lax. Gas-rate cases are one of the most powerful and controversial powers wielded by commissioners, one that shifts millions of dollars from ratepayers to a few powerful utilities. Meanwhile, the North Texas earthquakes generated undesired headlines about the commission and triggered crowded town-hall meetings of concerned citizens and local officials. These six cases should have been high-scrutiny for self-policing commissioners. Yet self-policing failed at every level.

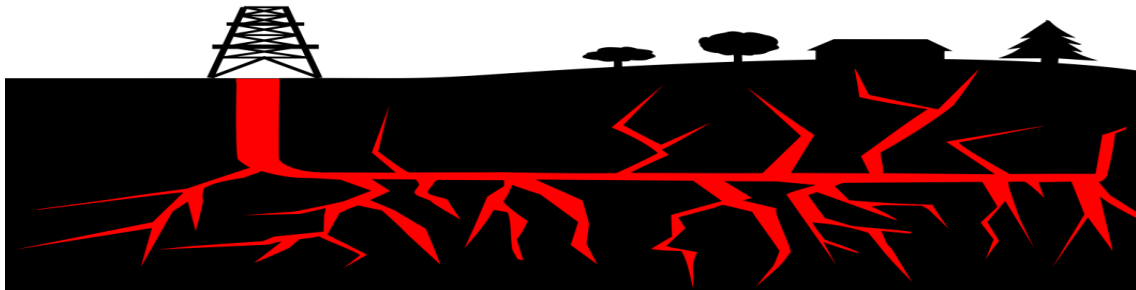
The Parsley Coffin Renner law firm that represented Atmos and CenterPoint in all six gas-rate cases gave huge amounts of money at every step of the process. It gave tens of thousands of dollars to winning commission candidates. It gave tens of thousands of dollars to sitting commissioners in between the studied rate cases. And it gave \$26,000 to sitting commissioners when it had active cases pending before them. Apparently, commissioner self-policing does not extend to lawyers and law firms with cases before the commission.

What of the direct parties to commission cases? The PACs and executives of parties to the eight cases studied here gave tens of thousands of dollars to winning commission candidates, some of whom went on to participate in the cases in question. The PACs and executives of parties to the eight cases gave tens of thousands of dollars to sitting commissioners in between the studied rate cases. Finally, the PACs and leaders of companies involved in these eight cases gave tens of thousands of dollars to Commissioners Craddick, Porter, Sitton and Smitherman while they had commission cases pending. If the self-policing testimony of Craddick and Smitherman meant anything at all, it had to apply to sitting commissioners taking money from direct parties with cases pending before the commission. Yet the commissioners took the money. The failed self-policing policies of the Railroad Commissioners need to be replaced by state laws that deter violators with penalties.

“The only reason that criticism comes up is because people perceive there to be different interests between oil company executives, or business owners in the oil business, and the general public,” Commissioner Sitton told the *Morning News*. “That’s a misconception.” No less an authority than Rex Tillerson, the ExxonMobil chief who became U.S. Secretary of State, highlights the absurdity of Sitton’s argument. As head of Exxon and its XTO



subsidiary, Tillerson eagerly supported fracking. As a private citizen in 2013, however, Tillerson [joined](#) a lawsuit to prevent Cross Timbers Water Supply from building a 15-story fracking water tower next to Tillerson's 83-acre horse ranch south of Denton. Tillerson and other plaintiffs argued that the project would [create](#) "a noise nuisance and traffic hazards." If Rex Tillerson's interests are not always the same as the energy industry's interests, it is nuts to equate the industry's interests with those of the general public. It's time for lawmakers to police the self-police.



Appendix 1. The Commissioners’ “Self-Policing” Testimony

To understand the Sunset Committee testimony below, it helps to know that six weeks before this December 19, 2012 [hearing](#) voters elected Commissioner Christi Craddick to replace appointed interim Commissioner Buddy Garcia.¹⁰ Craddick testifies below that she learned around Thanksgiving that she would take office in December 2012—instead of the typical transition that occurs in January. Then-Commissioner Barry Smitherman refers below to a “blackout period,” which is the time surrounding legislative sessions (in the first five months of odd-numbered years) when commissioners cannot raise political funds. Participating in this exchange (occurring 2 hours and 15 minutes into the hearing) are Commissioners Craddick and Smitherman, joined by Sen. Joan Huffman (R) and Rep. Rafael Anchia (D). Commissioner Porter was present but did not join in this self-policing discussion.

Huffman: Do you have any kind of self-policing or internal rules that—like an internal barometer sort of—that you don’t take contributions, or is that an unfair question? I mean, are you self-policing?

Craddick: I think we are. I mean, let me say this, I was asked, because I didn’t know I was coming in early, and there were several people playing catch up on my race, I guess is a good way to put it. I was asked if I was coming in early, which I was not advised of until Thanksgiving week so I didn’t know I was coming in early—would be appointed early—and I said, ‘No I wasn’t,’ and they said, ‘because we have things pending [before the commission] through the rest of the year and potentially through the next year and, if you are going to sit, we as a company, and I’m going to tell you me--because I think it’s ethically correct as well--we won’t give you this contribution because that is their internal policy and I think most companies have these internal policies.’

Huffman: So the industry itself has some policing?

Craddick: Correct. And I think those of us sitting...

Huffman: The public needs to know that.

Craddick: That’s correct. Thank you. So thank you for the question because I think people don’t realize that, and frankly if you go look when we’ve all got things, and you know I’m an attorney--and we’ve got two attorneys sitting here [Craddick and Smitherman]--we probably aren’t talking to people either because that becomes a real problem if they’ve got something coming in front of us as well.

Smitherman: You know, this is the practical side of it senator, is that the companies self-police this, we self-police it. So, for example, during this window after the November election through the blackout period, you know, your fundraising staff will say to you, ‘You gotta make a bunch of calls and here’s who you need to call,’ and I will say, ‘I’m not calling them because I think we’ve got a case.’

Huffman: OK, good, I’m glad to hear that.

Craddick: I know that perception is reality in this business but I’m not sure that there’s been issues come up like this [conflicted contributions] that I’m aware of, particularly—especially with the three of us. But I don’t think even historically in the last several years with other commissioners, and if they are they were inadvertent, I think, because I think we all want to--and do watch and see what is coming or try to make sure we know what is coming.

Anchia: I think the three of you made a really good case for these recommendations. I mean if the industry is self-policing and y’all are self-policing, then why are these recommendations provocative?

Craddick: I think the question is why, if we are capable of self-policing, why should we be treated differently than other non-judicial statewides? Because I think we should self-police and I think we are ethical and able to self-police, which is the important part of this.

Anchia: And I like all of you and I trust what you’re telling me, commissioner, but a lot of times, as you suggested, perception is reality. So to the extent that self-policing is going on by both the industry and the commissioners, these would seem to be reasonable and common sense provisions to adopt so that we can restore some public confidence to the extent that it’s lacking in the institution. •

Appendix 2.

Big Atmos Energy Rate Cases

(Candidates who had not taken office yet named in **Bold Green**)

Case 10000	Case 10170	Case 10174	Date	Amount	Contributor (Affiliation)	Recipient Commissioner
			7/22/10	\$10,000	Parsley Coffin Renner	M. Williams
			8/12/10	\$5,000	Parsley Coffin Renner	D. Porter
9/17/10						
			9/30/10	\$10,000	Parsley Coffin Renner	E.A. Jones
			10/12/10	\$250	Verlon Aston (Atmos VP Gov. Aff.)	D. Porter
			10/13/10	\$500	Freddie Meisenheimer (Atmos CFO)	D. Porter
			10/14/10	\$1,000	Kim Cocklin (Atmos CEO)	D. Porter
			10/14/10	\$250	Conrad Gruber (Atmos VP)	D. Porter
			10/14/10	\$1,000	Robert W Best (Atmos Chair)	D. Porter
			10/14/10	\$500	Louis P Gregory (Atmos Gen'l Counsel)	D. Porter
			10/15/10	\$500	Michael Haefner (Atmos Pres. & COO)	D. Porter
			10/21/10	\$250	John Paris (Atmos Div. Pres.)	D. Porter
			12/2/10	\$5,000	Parsley Coffin Renner	D. Porter
4/18/11						
2011	Session	Blackout				
			6/28/11	\$5,000	Parsley Coffin Renner	D. Porter
			7/27/11	\$5,000	Parsley Coffin Renner	B. Smitherman
			8/12/11	\$5,000	Atmos Energy PAC	B. Smitherman
			8/25/11	\$5,000	Atmos Energy PAC	D. Porter
			11/1/11	\$5,000	Parsley Coffin Renner	D. Porter
			12/30/11	\$5,000	Parsley Coffin Renner	B. Smitherman
			3/23/12	\$5,000	Parsley Coffin Renner	D. Porter
			4/13/12	\$3,000	Atmos Energy PAC	C. Craddick
			4/25/12	\$5,000	Parsley Coffin Renner	B. Smitherman
			4/26/12	\$1,000	Kim Cocklin (Atmos CEO)	B. Smitherman
			4/26/12	\$5,000	Atmos Energy PAC	D. Porter
			5/10/12	\$5,000	Atmos Energy PAC	B. Smitherman
			5/16/12	\$5,000	Parsley Coffin Renner	C. Craddick
	5/31/12					
		6/6/12				
			6/19/12	\$5,000	Parsley Coffin Renner	B. Smitherman
			6/25/12	\$5,000	Atmos Energy PAC	B. Smitherman
			6/25/12	\$3,000	Atmos Energy PAC	C. Craddick
			9/25/12	\$5,000	Parsley Coffin Renner	D. Porter
		10/2/12				
			10/24/12	\$1,000	Parsley Coffin Renner	B. Smitherman
			10/27/12	\$6,000	Parsley Coffin Renner	C. Craddick
			10/28/12	\$5,000	Atmos Energy PAC	C. Craddick
	12/4/12					
Self-	Police	Testimony	12/19/12			
			12/30/12	\$1,000	Parsley Coffin Renner	D. Porter
2013	Session	Blackout				
			6/26/13	\$1,000	Michael Haefner (Atmos Pres. & COO)	B. Smitherman
			6/27/13	\$1,000	Kim Cocklin (Atmos CEO)	B. Smitherman
			6/27/13	\$250	Richard A Erskine (Atmos Pres.)	B. Smitherman
			6/27/13	\$250	Conrad Gruber (Atmos VP)	B. Smitherman
			6/27/13	\$250	Verlon Aston (Atmos VP Gov. Aff.)	B. Smitherman
			6/27/13	\$750	Marvin L Sweetin (Atmos Sr. VP)	B. Smitherman
			6/27/13	\$1,000	Louis P Gregory (Atmos Gen'l Counsel)	B. Smitherman

	6/27/13	\$15,000	Atmos Energy PAC	B. Smitherman
	6/28/13	\$5,000	Parsley Coffin Renner	B. Smitherman
	7/5/13	\$1,000	Bret Eckert (Atmos CFO)	B. Smitherman
	7/15/13	\$5,000	Parsley Coffin Renner	D. Porter
	8/5/13	\$1,000	Kim Cocklin (Atmos CEO)	D. Porter
	8/13/13	\$750	Marvin L Sweetin (Atmos Sr. VP)	D. Porter
	8/13/13	\$250	Verlon Aston (Atmos VP Gov. Aff.)	D. Porter
	8/13/13	\$250	Richard Erskine (Atmos Pres.)	D. Porter
	8/13/13	\$1,000	Louis P Gregory (Atmos Gen'l Counsel)	D. Porter
	8/14/13	\$250	Richard Erskine (Atmos Pres.)	C. Craddick
	8/14/13	\$250	Conrad Gruber (Atmos VP)	D. Porter
	8/14/13	\$15,000	Atmos Energy PAC	D. Porter
	8/20/13	\$1,000	Bret Eckert (Atmos CFO)	D. Porter
	8/23/13	\$1,000	Bret Eckert (Atmos CFO)	C. Craddick
	8/26/13	\$1,000	Louis P Gregory (Atmos Gen'l Counsel)	C. Craddick
	8/26/13	\$250	Verlon Aston (Atmos VP Gov. Aff.)	C. Craddick
	8/26/13	\$1,000	Michael Haefner (Atmos Pres. & COO)	C. Craddick
	8/26/13	\$250	John Paris (Atmos Div. Pres.)	C. Craddick
	8/26/13	\$250	John Paris (Atmos Div. Pres.)	D. Porter
	8/26/13	\$250	John Paris (Atmos Div. Pres.)	B. Smitherman
	8/27/13	\$750	Marvin L Sweetin (Atmos Sr. VP)	C. Craddick
	8/31/13	\$1,000	Kim Cocklin (Atmos CEO)	C. Craddick
	8/31/13	\$15,000	Atmos Energy PAC	C. Craddick
	10/18/13	\$1,000	Robert W Best (Atmos Chair)	B. Smitherman
	10/28/13	\$5,000	Parsley Coffin Renner	D. Porter
	10/28/13	\$10,000	Parsley Coffin Renner	C. Craddick
	12/2/13	\$5,000	Parsley Coffin Renner	B. Smitherman
	4/10/14	\$5,000	Parsley Coffin Renner	B. Smitherman
	6/13/14	\$10,000	Atmos Energy PAC	R. Sitton
	12/2/14	\$10,000	Parsley Coffin Renner	D. Porter
	12/10/14	\$10,000	Parsley Coffin Renner	C. Craddick
2015	Session	Blackout		
	6/30/15	\$5,000	Parsley Coffin Renner	D. Porter
	11/3/15	\$10,000	Atmos Energy PAC	D. Porter
	11/23/15	\$10,000	Atmos Energy PAC	C. Craddick
	12/2/15	\$5,000	Parsley Coffin Renner	C. Craddick
	1/12/16	\$10,000	Atmos Energy PAC	R. Sitton
	3/25/16	\$5,000	Parsley Coffin Renner	R. Sitton
	TOTAL	\$296,250		

Appendix 3.

Big CenterPoint Rate Cases

(Candidates who had not taken office yet named in **Bold Green**)

Case 10038	Case 10182	Case 10432	Date	Amount	Contributor (Affiliation)	Recipient Commissioner
			7/22/10	\$10,000	Parsley Coffin Renner	M. Williams
			8/12/10	\$5,000	Parsley Coffin Renner	D. Porter
			9/21/10	\$109	Jeff W Bonham (CtrPt VP Gov Rel)	D. Porter
			9/30/10	\$10,000	Parsley Coffin Renner	E.A. Jones
			12/2/10	\$5,000	Parsley Coffin Renner	D. Porter
12/3/10						
			12/7/10	\$250	Wayne D Stinnett (CtrPt Sr VP)	D. Porter
			12/8/10	\$250	George Hepburn (CtrPt VP/Gen Counsel)	D. Porter
			12/8/10	\$250	Joseph B McGoldrick (CtrPt Sr VP)	D. Porter
			12/8/10	\$250	Thomas R Standish (CtrPt EVP)	D. Porter
			12/8/10	\$468	Scott E Rozzell (EVP/Gen Counsel)	D. Porter
2011	Session	Blackout				
4/18/11						
			6/28/11	\$1,000	Jeff W Bonham (CtrPt VP Gov Rel)	D. Porter
			6/28/11	\$500	David M McClanahan (CtrPt Pres./CEO)	D. Porter
			6/28/11	\$500	Scott E Rozzell (EVP/Gen Counsel)	D. Porter
			6/28/11	\$636	CenterPoint Energy PAC	D. Porter
			6/28/11	\$250	George Hepburn (CtrPt VP/Gen Counsel)	D. Porter
			6/28/11	\$5,000	Parsley Coffin Renner	D. Porter
			6/30/11	\$1,864	CenterPoint Energy PAC	D. Porter
			7/27/11	\$5,000	Parsley Coffin Renner	B. Smitherman
			10/19/11	\$500	Jeff W Bonham (CtrPt VP Gov Rel)	C. Craddick
			10/27/11	\$2,500	CenterPoint Energy PAC	B. Smitherman
			11/1/11	\$5,000	Parsley Coffin Renner	D. Porter
			11/10/11	\$1,000	Gary L Whitlock (CtrPt EVP/CFO)	B. Smitherman
			11/15/11	\$500	Tracy B Bridge (CtrPt Sr VP)	B. Smitherman
			11/15/11	\$500	George Hepburn (CtrPt VP/Gen Counsel)	B. Smitherman
			11/15/11	\$500	Joseph B McGoldrick (CtrPt Sr VP)	B. Smitherman
			11/15/11	\$2,500	Scott E Rozzell (EVP/Gen Counsel)	B. Smitherman
			11/15/11	\$1,000	Jeff W Bonham (CtrPt VP Gov Rel)	B. Smitherman
			11/15/11	\$2,500	David M McClanahan (CtrPt Pres./CEO)	B. Smitherman
			12/30/11	\$5,000	Parsley Coffin Renner	B. Smitherman
			2/23/12	\$1,000	Jason M Ryan (CtrPt VP)	B. Smitherman
			3/5/12	\$500	Marc Kilbride (CtrPt VP/Treas)	B. Smitherman
			3/8/12	\$100	Marc Kilbride (CtrPt VP/Treas)	D. Porter
			3/18/12	\$500	David M McClanahan (CtrPt Pres./CEO)	D. Porter
			3/21/12	\$500	David M McClanahan (CtrPt Pres./CEO)	B. Smitherman
			3/21/12	\$250	Joseph B McGoldrick (CtrPt Sr VP)	B. Smitherman
			3/23/12	\$2,500	CenterPoint Energy PAC	B. Smitherman
			3/23/12	\$500	David M McClanahan (CtrPt Pres./CEO)	B. Smitherman
			3/23/12	\$1,000	Thomas R Standish (CtrPt EVP)	B. Smitherman
			3/23/12	\$500	Thomas R Standish (CtrPt EVP)	D. Porter
			3/23/12	\$2,500	Scott E Rozzell (EVP/Gen Counsel)	B. Smitherman
			3/23/12	\$5,000	Parsley Coffin Renner	D. Porter
			3/26/12	\$500	Tracy B Bridge (CtrPt Sr VP)	D. Porter
			3/26/12	\$1,662	CenterPoint Energy PAC	D. Porter
			3/26/12	\$838	CenterPoint Energy PAC	D. Porter
			3/26/12	\$500	Scott E Rozzell (EVP/Gen Counsel)	D. Porter
			3/26/12	\$500	Jeff W Bonham (CtrPt VP Gov Rel)	B. Smitherman
			3/28/12	\$500	Kenneth M Mercado (CtrPt Sr VP)	B. Smitherman
			4/12/12	\$1,000	Gary L Whitlock (CtrPt EVP/CFO)	B. Smitherman

			4/13/12	\$250	George Hepburn (CtrPt VP/Gen Counsel)	D. Porter
			4/25/12	\$5,000	Parsley Coffin Renner	B. Smitherman
			5/16/12	\$5,000	Parsley Coffin Renner	C. Craddick
			6/19/12	\$5,000	Parsley Coffin Renner	B. Smitherman
			7/2/12			
			7/12/12	\$1,000	Scott E Rozzell (EVP/Gen Counsel)	B. Smitherman
			7/16/12	\$250	Marc Kilbride (CtrPt VP/Treas)	B. Smitherman
			9/25/12	\$5,000	Parsley Coffin Renner	D. Porter
			10/4/12	\$500	Jeff W Bonham (CtrPt VP Gov Rel)	C. Craddick
			10/18/12	\$250	Jason M Ryan (CtrPt VP)	C. Craddick
			10/18/12	\$250	Joseph B McGoldrick (CtrPt Sr VP)	C. Craddick
			10/18/12	\$250	George Hepburn (CtrPt VP/Gen Counsel)	C. Craddick
			10/18/12	\$250	Steven H Schuler (CtrPt VP)	C. Craddick
			10/24/12	\$1,000	Parsley Coffin Renner	B. Smitherman
			10/27/12	\$6,000	Parsley Coffin Renner	C. Craddick
			10/29/12	\$500	Scott E Rozzell (EVP/Gen Counsel)	C. Craddick
			12/4/12			
			12/7/12	\$1,000	Jason M Ryan (CtrPt VP)	B. Smitherman
Self-	Police	Testimony	12/19/12			
			12/30/12	\$1,000	Parsley Coffin Renner	D. Porter
2013	Session	Blackout				
			6/25/13	\$500	Jason M Ryan (CtrPt VP)	B. Smitherman
			6/28/13	\$500	Tracy B Bridge (CtrPt Sr VP)	B. Smitherman
			6/28/13	\$250	Joseph B McGoldrick (CtrPt Sr VP)	B. Smitherman
			6/28/13	\$1,000	Gary L Whitlock (CtrPt EVP/CFO)	B. Smitherman
			6/28/13	\$11,000	CenterPoint Energy PAC	B. Smitherman
			6/28/13	\$1,000	Thomas R Standish (CtrPt EVP)	B. Smitherman
			6/28/13	\$1,000	Scott E Rozzell (EVP/Gen Counsel)	B. Smitherman
			6/28/13	\$5,000	Parsley Coffin Renner	B. Smitherman
			7/9/13	\$2,500	CenterPoint Energy PAC	C. Craddick
			7/15/13	\$2,500	CenterPoint Energy PAC	D. Porter
			7/15/13	\$5,000	Parsley Coffin Renner	D. Porter
			7/29/13	\$364	Jeff W Bonham (VP Gov Rel)	D. Porter
			10/4/13	\$500	Jason M Ryan (CtrPt VP)	C. Craddick
			10/10/13	\$150	David Eugene Baker (CtrPt Mgr)	D. Porter
			10/13/13	\$500	Jeff W Bonham (VP Gov Rel)	D. Porter
			10/21/13	\$500	Joseph B McGoldrick (CtrPt Sr VP)	D. Porter
			10/22/13	\$500	Steven C Greenley (CtrPt VP)	C. Craddick
			10/28/13	\$500	Scott E Rozzell (EVP/Gen Counsel)	D. Porter
			10/28/13	\$1,063	CenterPoint Energy PAC	D. Porter
			10/28/13	\$10,000	Parsley Coffin Renner	C. Craddick
			10/28/13	\$5,000	Parsley Coffin Renner	D. Porter
			10/29/13	\$250	Tracy B Bridge (CtrPt Sr VP)	D. Porter
			11/1/13	\$500	Jeff W Bonham (CtrPt VP Gov Rel)	C. Craddick
			11/18/13	\$500	Steven C Greenley (CtrPt VP)	D. Porter
			11/26/13	\$1,000	Scott E Rozzell (EVP/Gen Counsel)	B. Smitherman
			12/2/13	\$5,000	Parsley Coffin Renner	B. Smitherman
			12/26/13	\$200	George Hepburn (CtrPt VP/Gen Counsel)	B. Smitherman
			12/28/13	\$500	Jason M Ryan (CtrPt VP)	B. Smitherman
			12/31/13	\$2,500	CenterPoint Energy PAC	B. Smitherman
			3/31/14	\$100	Jason M Ryan (CtrPt VP)	R. Sitton
			4/10/14	\$5,000	Parsley Coffin Renner	B. Smitherman
			6/19/14	\$2,500	CenterPoint Energy PAC	R. Sitton
			10/9/14	\$2,500	CenterPoint Energy PAC	D. Porter
			10/17/14	\$500	Joseph B McGoldrick (CtrPt Sr VP)	D. Porter
			10/25/14	\$2,500	CenterPoint Energy PAC	C. Craddick
			12/2/14	\$10,000	Parsley Coffin Renner	D. Porter
			12/10/14	\$10,000	Parsley Coffin Renner	C. Craddick
			3/27/15			
2015	Session	Blackout				
			6/30/15	\$5,000	Parsley Coffin Renner	D. Porter
			8/25/15			
			9/22/15	\$250	Scott E Doyle (CtrPt Sr VP)	C. Craddick

9/22/15	\$500	Scott E Doyle (CtrPt Sr VP)	D. Porter
9/22/15	\$500	Jason M Ryan (CtrPt VP)	D. Porter
9/22/15	\$200	George Hepburn (CtrPt VP/Gen Counsel)	D. Porter
9/24/15	\$250	Steven C Greenley (CtrPt VP)	C. Craddick
9/25/15	\$200	Richard A Zapalac (CtrPt Sr VP)	C. Craddick
9/25/15	\$250	Tracy B Bridge (CtrPt Sr VP)	C. Craddick
9/25/15	\$250	Joseph B McGoldrick (CtrPt Sr VP)	C. Craddick
9/25/15	\$5,000	CenterPoint Energy PAC	C. Craddick
9/26/15	\$200	Richard A Zapalac (CtrPt Sr VP)	D. Porter
9/26/15	\$1,000	Scott M Prochazka (CtrPt Pres./CEO)	D. Porter
9/26/15	\$500	Joseph B McGoldrick (CtrPt Sr VP)	D. Porter
9/26/15	\$5,000	CenterPoint Energy PAC	D. Porter
12/2/15	\$5,000	Parsley Coffin Renner	C. Craddick
3/9/16	\$5,000	CenterPoint Energy PAC	R. Sitton
3/25/16	\$5,000	Parsley Coffin Renner	R. Sitton
TOTAL	\$247,654		

Notes

¹ State law prohibits contributions to the commissioners for a period surrounding legislative sessions, which regularly occur in the first five months of odd-numbered years.

² See recommendations 1.2, 1.3 and 1.5 starting on page 18 of this [report](#).

³ "[Natural Gas Consumers & the Texas Railroad Commission](#)," Atmos Cities Steering Committee, December 2010.

⁴ The report also found that the commissioners favored industrial and commercial ratepayers at the expense of residential households.

⁵ Parsley Coffin Renner's primary attorneys on these rate cases were Ann Coffin, Mark Santos and Dane McKaughan (the latter is now at Greenberg Traurig, LLP).

⁶ Interim appointee Buddy Garcia, who finished part of Commissioner Elizabeth Ames Jones' term in 2012, did not raise political funds.

⁷ [Ann Coffin](#), [Gene Montes](#) and [Daniel Renner](#) are former Railroad Commission hearings examiners.

⁸ This included a \$468 in-kind contribution by then-CenterPoint General Counsel Scott Rozzell for "a fundraising lunch."

⁹ See case Nos. 10170, 10174 and 10182.

¹⁰ Gov. Rick Perry appointed Garcia to finish the term of Commissioner Elizabeth Ames Jones, who resigned in February 2012 to make a failed Texas Senate bid.