EXECUTIVE SUMMARY

Captive Agency

Part II: Campaign contributions raise questions about bias at the Railroad Commission of Texas

October 2021

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The Railroad Commission of Texas (RRC) is a 130-year-old state agency that oversees oil and gas development, coal and uranium mining, and natural gas utility service among other functions. Its mission is to serve Texas through stewardship of natural resources and the environment, concern for personal and community safety, and support of enhanced development and economic vitality for the benefit of Texans. Too often, the commission has focused on accelerated oil and gas development at the expense of safety, economic vitality and stewardship of natural resources and the environment.

Financial disclosure policies, recusal rules, and campaign contribution laws allow regulated companies to contribute to railroad commissioners' political campaigns, introducing, at the very least, an appearance of bias to the commissioners' decision making. Policy reforms in these areas could help to establish balanced governance of oil and gas development.

Commission Shift and Texans for Public Justice reviewed the three sitting commissioners' personal financial statements made to the Texas Ethics Commission. This report focuses on Railroad Commission Chairman Wayne Christian's personal finances. Other reports in this series examine the other commissioners' finances. Commissioner Christian held oil and gas stocks worth between $106 and $10,564 in 2020. Christian also sold oil and gas stocks with a net impact ranging from a loss of up to $8,930 to a gain of up to $8,930 (precise values are unknown since officials report their holdings in ranges). Christian also earned dividends from oil and gas companies totaling from $8,935 to $62,510. He also participated in a 2020 commission decision involving at least one of the companies whose stock he sold that year. This analysis did not include an exhaustive review of the docket.

The Railroad Commission requires commissioners to recuse themselves from a measure, proposal or decision in which they have a "personal or private interest." The term is not clearly defined, and only the attorney general can enforce the standard.

This report also analyzes the $15 million in campaign contributions that the four most-recent commissioners raised from 2015 through 2020. The oil and gas industry that they oversee supplied 67% of that amount. Individual oil and gas contributors gave hundreds of thousands of dollars to the commissioners' campaigns. The commissioners take campaign funds from parties with active cases pending before their agency. In this regard, two sectors of the oil and gas industry in particular stand out: wastewater disposal companies and pipeline companies.

The commissioners decide many wastewater disputes involving competing interests that contributed hundreds of thousands of dollars to their campaigns. Salty water that is produced from oil and gas wells is injected into underground disposal wells that have been found to trigger earthquakes, interfere with nearby oil and gas wells, and contaminate water supplies. Many oil and gas producers job out this disposal to waste companies, which are a growing source of agency disputes—and campaign funds.

After strong quakes struck near Pecos County in 2020, the Railroad Commission asked area waste companies to relieve pressure by voluntarily reducing injections. Only the commissioners' second-highest contributor, Denver-based NGL Water Solutions, declined to comply with that request for six months. Underscoring the close alignment of interests between the commissioners and industry, a private attorney who represented NGL in that dispute is now Commissioner Jim Wright's staff general counsel.

On the pipeline side, the commissioners levied relatively light fines on a company that was one of their top contributors after West Texas Gas pipeline eruptions hospitalized three ill-prepared workers and killed another. More broadly, the commissioners have been reticent to rein in the controversial eminent-domain powers that allow "common-carrier" pipelines to force landowners to grant them easements to build pipelines across privately owned lands.

What is more, gas pipeline giants Energy Transfer Partners and Kinder Morgan made billions of dollars off Winter Storm Uri power outages in 2021, when gas supplies were constricted and prices skyrocketed. Gas utility applications for the "review and securitization of extraordinary costs" must be approved by the Railroad Commission. Consumers face paying off about $4.5 billion in bonds for decades. The commission's duties to serve the public interest in these securitization applications are in direct conflict with the interests of some of their largest campaign donors.

The following policy solutions would help the agency achieve its mission, renew confidence in the electoral process, and bolster public trust in an agency that oversees one of Texas' most important industries.

1. **Demonstrate no financial interest:** Before serving, commissioners should be required to divest from the industries they regulate. As in Oklahoma, commissioners overseeing the oil and gas industry should divest from those interests to safeguard the public trust.
2. **Limit campaign contributions:** RRC candidate fundraising should be limited to the 18-month period preceding that election. Parties with upcoming contested case hearings should not be allowed to contribute to commission campaigns. Contributions should be limited to $5,000 per election cycle. Recusals should be triggered if a commissioner received more than $1,000 from a company in the candidate's last election cycle.
3. **Improve financial disclosure:** Texas should increase the upper range value of financial disclosures for RRC candidates and commissioners to match congressional disclosure requirements. In Texas, the current maximum disclosure category is "$44,630 or more." Financial disclosure forms also should specify whether certain reported incomes come from interest, dividends, royalties or rents.
4. **Strengthen recusal standards:** Commissioners should recuse themselves from cases involving companies with which they hold equity, income, or business ties—or if the company donated more than $1,000 to their campaign in the last election cycle. The state legislature should clarify and better enforce conflict of interest policies.
5. **Use a neutral forum for contested cases:** The commission should conduct independent hearings through the State Office of Administrative Hearings for contested enforcement cases and gas utility cases. Currently, Railroad Commissioners approve administrative law judges' hiring and compensation, which may encourage administrative law judges to favor parties that have financial ties to commissioners.