

# Captive Agency

Part I: Conflict of interest policies at the Railroad Commission of Texas need reform.

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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, natural resources and the environment.

Agency policies that let sitting commissioners profit from the industry that they oversee, however, may exacerbate this inadequate oversight. In this report, Commission Shift and Texans for Public Justice explore Railroad Commission policies that undermine balanced governance of oil and gas development.

This analysis explains how current policies impair the ability of the Railroad Commission to fulfill its mission. As part of a series examining each of the three railroad commissioners, this analysis provides examples of cases in which lax enforcement of recusal rules allowed Railroad Commission Chair Christi Craddick to participate in cases involving significant campaign contributors and companies in which she had personal financial stakes.

The following common-sense solutions would help the agency achieve its mission, renew confidence in the Texas 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 option 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 have personal equity, income, business 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.
- 6. Reduce bias in legislative accountability:** Legislators who are family members of commissioners or executive directors should be required to recuse themselves from decisions involving the agency and should not be allowed to sit on committees that oversee the agency.

Railroad Commission Chair Christi Craddick and her two colleagues oversee the state's oil and gas industry after getting elected in statewide campaigns overwhelmingly funded by the oil and gas interests that they regulate. Commissioners are allowed to take campaign contributions throughout their six-year terms. By contrast, state legislative and judicial candidates can only accept campaign contributions during defined election periods.

Craddick maintains stakes in oil and gas entities that do business with her agency. One limitation in the personal financial disclosures filed by state officials include the fact that their largest asset and liability category is "\$44,630 or more." With such caveats in mind, Craddick's disclosure covering 2020 suggests a net worth of at least \$8 million to more than \$19.5 million (officials report these values in ranges). Craddick's oil and gas assets are worth between \$1.5 million to more than \$1.9 million. Some of those oil and gas assets are owned by family companies in which Craddick has at least a 5% interest. During 2020 she held 18 oil and gas stocks and sold off 28 more, not including mutual fund transactions. That same year she owned mineral interests in more than 140 properties.

The Railroad Commission requires commissioners to recuse themselves from a measure, proposal, or decision in which they have a "personal or private interest." Craddick recused herself from only two matters from 2015 through 2020—neither of which appeared to involve personal financial interests or campaign contributions. This report looks at four cases in which Craddick's personal finances seemed to intertwine with her official duties without prompting her to recuse herself.

Craddick's personal and political finances also are entangled with those of her father. State Rep. Tom Craddick of Midland is Texas' longest serving lawmaker, first elected in 1969 and who served as Speaker of the House from 2003 to 2009. Since 2009, Rep. Craddick has served on the House Energy Resources Committee, which oversees the Railroad Commission. Between Christi Craddick's 1995 University of Texas at Austin School of Law graduation and her 2012 commission election, her father's political committees paid her more than \$1 million, even as he personally donated more than \$600,000 to her first commission campaign. The up to \$680,000 in lobby income that Christi Craddick reported in that time period also is difficult to disassociate from her father's political involvements.

Finally, a couple of Commissioner Craddick's transactions in Austin's real estate market are noteworthy. After oil prices crashed in 2020, Craddick bought an Austin home that was never listed on the Multiple Listing Service. She bought that house from an oil and gas executive whose company declared bankruptcy the same month that he sold his home to her. Meanwhile, as Austin home markets skyrocketed in recent years, Austin's local tax district agreed to cut its tax appraisal of Craddick's homestead by 23% from 2019 to 2021.

The current ethics policy framework does not clearly define the term “personal or private interest” which the railroad commission’s recusal policy hinges on. Moreover, the policy must be enforced “on the petition of the attorney general,” making it potentially difficult to enforce. Several policy reforms are needed to prevent real or apparent ethical breaches, improve transparency, and regain public trust. Many of the reforms proposed in this report have been employed at different agencies in Texas, in different states, or at the federal level (see Appendix III).

Four case studies illustrate Craddick’s participation in agency matters in which she had financial interests, potentially undermining the RRC’s reputation and mission.

- 1. Groundwater contamination:** Craddick cast a deciding vote not to fine a pipeline company for a leak despite owning between \$17,520 and \$35,874 in the company’s stock and receiving \$22,500 in campaign contributions from the company.
- 2. Discriminatory rates:** Craddick did not recuse herself from a case in which a pipeline company was accused of charging gas producers discriminatorily high rates. Craddick owned shares in companies on both sides of the dispute, which all funded her campaign. She also held royalty interests tied to the case.
- 3. Non-odorized gas:** RRC staff recommended penalizing a pipeline company \$529,000 for failing for more than a year to add scent to gas in a transmission line passing through populated areas for safety purposes. The commission dismissed the case, which involved serious proposed penalties, without explanation. Commissioner Craddick reported receiving income of up to \$24,999 from the pipeline company the same year. The type of income (i.e. interest, dividends, royalties, or rents) is not defined in the personal financial statement form.
- 4. Surface water contamination:** An eight-year case involving the alleged contamination of a pond resulted in delayed soil cleanup without ongoing testing and monitoring. Commissioners sided with the well operator, holding a pipeline company responsible for soil remediation without penalizing the pipeline company for its noncompliance with agency requests to monitor the site. Commissioners Craddick and Wayne Christian held stock for years in the company operating the well. Craddick reported buying shares in the pipeline company the year the case was decided. Commissioners Christian and Craddick collected \$31,000 in campaign contributions from the companies.