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Texas oil and gas regulator sued over flaring decision

Texas oil and gas regulators have granted almost 30,000 permits to burn natural gas into the air over the past seven years, but a pipeline company is now challenging its authority to unilaterally green-light the practice of flaring. Williams Cos., based in Tulsa, Okla., is suing the Texas Railroad Commission in state District Court in Travis County, arguing that it made the wrong decision when it recently allowed oil exploration company Exco Resources Co. to flare.

The commission ruled that Exco didn't have to use a Williams pipeline in the Eagle Ford shale play to transport gas Exco pumped as a byproduct from its oil wells in the South Texas field. The low prices for natural gas — several times this year, producers would have had to pay to get the gas taken off their hands — and a shortage of pipelines have driven energy companies to file a blizzard of flaring permits. And the Railroad Commission, looking to spur oil production in Texas, has approved nearly every request. The commission is also charged with preventing waste of the state's natural resources. Oil producers have traditionally asked the commission to OK flaring only when there was no pipeline available to transport the gas. It hasn't always been that way, Williams lawyers contend. Oil and gas regulators had rejected gas flaring applications by oil companies.

Railroad Commission spokeswoman Ramona Nye said the commission does not comment on lawsuits filed against it. Exco officials also did not respond to requests for comment. What's unusual in this case is that there was a pipeline to transport the gas. Williams challenged Exco's right to flare the gas at 138 of its oil wells in Dimmit and Zavala counties before the commission earlier this year. The three-member commission, by a 2-1 vote in August, rejected Williams' motion as well as a subsequent motion for reconsideration in October. Commission members argued that it would be against free enterprise principles to force Exco to sign a contract with Williams. Dallas-based Exco, which emerged from bankruptcy in July, argued that using the Williams system would be too costly. In its lawsuit, filed in late November, Williams said the commission was in "error" because it did not take into account revenues Exco was making from the production and sale of oil from its wells. Railroad Commissioner Wayne Christian, the sole dissenting vote in the case, rejected Exco's argument at the rehearing in October. He said that while Exco was claiming a potential loss of $40,000 a month per well if it had to transport and sell the gas, it was earning $98,000 a month per well in selling the oil.