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4 Texas Supreme Court Oil & Gas Cases To Watch This Term

By **Keith Goldberg**

Law360 (September 4, 2026, 8:50 PM EDT) -- The new term of the Texas Supreme Court initially appears light on oil and gas litigation, but Lone Star State attorneys told Law360 there are still a handful of cases that could have broad implications for the industry.

They include a high-profile fight over natural gas trading during extreme weather events, as well as a dispute over how oil is taxed as it moves from Texas production fields toward the Gulf of Mexico and potential export.

With the first oral arguments of the 2026-27 term scheduled for Sept. 15, here are a quartet of Texas Supreme Court cases that oil and gas attorneys are keeping an eye on.

Justices Asked for Input on Key Gas Contract Fight

Attorneys say the gas industry will eagerly tune in to Dec. 2 oral arguments held by the Texas Supreme Court on two certified questions from the Fifth Circuit stemming from a contractual dispute over undelivered gas supplies during 2021's Winter Storm Uri, when gas spot market prices skyrocketed.

The Fifth Circuit in July asked the justices to determine whether, under Texas contract interpretation principles, the force majeure provisions of the North American Energy Standards Board form contract, which is widely used by the gas industry, requires gas sellers who aren't producers to enter the spot market during a force majeure event, even if they had already been using the daily or spot market for part of their gas supplies.

If the Texas Supreme Court concludes that gas sellers are obligated to enter the spot market during a force majeure event, the Fifth Circuit asked the justices to then determine what constitutes "reasonable efforts" to provide gas from the spot market.

"The NAESB form underlies most physical gas trading in the country, so however the court answers, it will set important risk allocation principles for every marketer and utility trading on that form during the next price spike," said McGinnis Lochridge partner Austin Brister, who focuses on oil and gas litigation and is based in Houston.

Specifically, the Texas Supreme Court could determine who bears the risk when gas remains available during a supply emergency, but only at high spot market prices, according to Brown Rudnick LLP partner Lauren Varnado, who focuses on energy litigation and is based in Houston.

"It's a critical question for virtually all of my clients who use NAESB contracts," Varnado said.

The case is Mieco LLC v. Targa Gas Marketing LLC, case number 26-0802.

Stored Oil: To Tax, or Not to Tax?

The justices will hear oral arguments Oct. 8 in a Texas county tax assessor's appeal of a lower court decision that oil held for export is protected under the import-export clause of the U.S. Constitution. The San Patricio County Appraisal District had assessed property taxes on millions of barrels of oil stored by Gunvor USA LLC and Devon Gas Services LLP, saying there isn't proof those barrels were bound for foreign markets.

It's a case with major implications for both the oil industry and the counties between the state's major oil production fields and the Gulf of Mexico, according to Macey Reasoner Stokes, who heads Baker Botts LLP's appellate practice group and is based in Houston.

"It's a big money issue ... because in this particular circumstance, it's oil being shipped by pipeline from the Permian Basin and stored in tanks before then being shipped at sea to foreign destinations," Reasoner Stokes said. "It's obviously very valuable, [and] it's high-volume."

Indeed, the U.S. Chamber of Commerce and several industry groups submitted **an amicus brief Aug. 28** that argued a ruling in favor of the appraisal district would have "devastating" effects in a state that handles 90% of the nation's energy exports.

The cases are San Patricio County Appraisal District v. Gunvor USA LLC et al., case numbers 26-0157 and 26-0153.

Joint Operating Agreements and the Duty to Drill

ConocoPhillips subsidiary Burlington Resources Oil and Gas Co. has urged the Texas Supreme Court to reconsider its denial of the company's petition appealing a lower court decision that under a joint operating agreement, the company was required to drill wells that it and a partner previously committed to develop, despite Burlington determining that it wouldn't be prudent to do so.

The Texas Supreme Court denied Burlington's petition in June, and attorneys told Law360 that the justices rarely grant petitions after previously denying them. But industry groups including the Texas Oil & Gas Association and the Permian Basin Petroleum Association have lodged amicus briefs urging the court to take the case.

Burlington's JOA is based on the American Association of Professional Landmen's model form operating agreement, which is also the basis of most oil and gas operating agreements in Texas and across the nation. The TXOGA and PBPA argued that the lower court decision has created uncertainty over what an operator's duty of prudence is and the rights of parties in a JOA.

"Because this appeal presents an unresolved and important question of Texas law governing thousands of oil-and-gas relationships across the state, rehearing is warranted," the TXOGA said in its Aug. 24 amicus brief.

The case is Burlington Resources Oil and Gas Co. LP v. Texas Crude Energy LLC, case number 25-0194.

Oilfield Service Liability Shield

Texas-based oilfield services company Key Energy Inc. in August lodged a mandamus petition asking the Texas Supreme Court to declare that New Mexico workers' compensation law immunizes it from a lawsuit brought by one of its workers who was injured at a New Mexico drill site.

Key Energy argues that the New Mexico law immunizes employers "absent, among other things, an intentional employer act or omission reasonably expected to cause the worker's injury," which wasn't the case with its injured worker. A state court disagreed and set a Sept. 21 trial date, and an appellate court rejected the company's mandamus petition.

Key Energy also filed an emergency motion urging the Texas Supreme Court to put the lower court trial on hold until it resolves the mandamus petition. A response to that motion is due Wednesday.

Varnado of Brown Rudnick said a Texas Supreme Court decision in the case could impact how oil and gas producers and oilfield service providers evaluate and mitigate risk in drilling operations, including a determination of the financial threshold for "ordinary negligence" versus "gross negligence" in the active drilling of wells.

"From a litigation perspective, the petition also raises an interesting issue [about] consequential damages, specifically how supply delays should be treated under standard oilfield industry contracts," Varnado said.

The case is In re: Key Energy Services LLC and Key Energy Services Inc., case number 26-0872.

--Additional reporting by Michael Nunes. Editing by Kelly Duncan and Bruce Goldman.
