

4/2/2015

Dear Ms. Pastoriza:

I write in response to your email of April 1 (copied below) addressed to David Wiesner and Robert Scott of the Public Utilities Commission, and to Jane Murray and me at the Department of Environmental Services. Specifically, you requested that “[] Mr. Scott and Mr. Burack recuse themselves from the [Site Evaluation Committee] rulesmaking process because of their relationship with Mr. Getz.”

This response is provided on behalf of Mr. Scott and myself. First, please be advised that Mr. Getz left his employ at the Public Utilities Commission on February 1, 2012. Moreover, neither Mr. Scott nor I have any form of ongoing relationship with Mr. Getz. Second, please be aware that under the current Site Evaluation Committee (SEC) procedural rules, Site 202.03(c), pertaining to withdrawal of a presiding officer or member from a matter pending before the SEC, “Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal.” In addition, because neither Mr. Scott nor I personally believe that we cannot fairly judge the facts of this matter, good cause would not exist for either of us to withdraw from this matter pursuant to Site 202.03(b)(3).

Please also note that the 1 year time period that you refer to appears to be to RSA 363:12-b, which applies only to former PUC employees or commissioners appearing specifically before proceedings of the PUC. This statutory provision is applicable to the PUC, not the SEC. There is a general 6 month prohibition on an executive branch official appearing as a lobbyist for 6 months after leaving office or employment with the state, and this would be applicable to a former member of the SEC. See RSA 21:G-26.

For these reasons, and because we are confident of our respective abilities to handle this matter in a fair and objective manner, neither Mr. Scott nor I will withdraw or recuse ourselves from this rulemaking proceeding.

Respectfully,
Thomas S. Burack

cc: Martin Honigberg, Chairman, Site Evaluation Committee