

More Regulatory Capture at the PUC/SEC:

Michael Harrington (former PUC Commissioner and SEC member, now representative from Strafford) has introduced a bill to roll back some of the new SEC rules addressing visual impact assessments for energy projects and more. The bill is HB 462 and is currently scheduled for a hearing on 2/1 at 9:00 am in ST&E (Room 304 LOB).

In 2012, Sandy and Jim Dannis filed a motion to disqualify Commissioner Harrington from participating in the PUC docket on the Merrimack scrubber because Mr. Harrington had worked for PSNH before being nominated to the PUC and had a sizeable pension with PSNH/Northeast Utilities (now Eversource.)

“PUC denies ratepayer motion to disqualify Harrington due to pension from Northeast Utilities

Posted on [April 5, 2012](#) by **REAL**

The Public Utilities Commission (“PUC”) issued an [order](#) Tuesday denying the [motion to disqualify Commissioner Michael Harrington](#) because of the conflict of interest that may arise from Harrington’s pension from Northeast Utilities (“NU”). The motion, made by **REAL** members in their individual capacities, had sought to disqualify Harrington from sitting on matters relating to Northeast Utilities, Public Service of New Hampshire (“PSNH”) and their affiliates. **REAL’s** prior posts on the Harrington pension conflict can be found [here](#) and [here](#).

REAL is disappointed by the PUC’s action, but we’re not surprised. You’ve got to pity the PUC. They were stuck between a rock and a hard place. There’s a long practice, unfortunate and wrong as it is, to let people on the PSNH/NU pension payroll serve as commissioners or in other positions of responsibility. **Harrington previously sat as a PUC commissioner several years ago when he had the exact same pension entitlement, and former Commissioner Getz also had a PSNH/NU pension.** (my emphasis) If they’d disqualified Harrington now, they’d be admitting they were wrong in the past. And how many other people at the PUC are in the same boat as Harrington – on the PSNH/NU pension payroll? Who knows... The PUC was under immense pressure to stay consistent with past practice, even if it was wrong.

REAL is bemused by the PUC’s procedural approach to the Harrington disqualification issue. The motion sought to disqualify Harrington because of his conflict, but Harrington sat as a commissioner, deliberated about and then voted against the motion for his own disqualification. And with only two commissioners sitting (Commissioner Scott recused himself from the entire proceeding), Harrington’s vote for himself made it impossible for the disqualification motion to succeed. The commissioner with the alleged conflict can block any PUC action on the conflict? Bizarre. This kind of process at the PUC will obviously not build respect or confidence among ratepayers...

“<http://responsibleenergyaction.com/pages/701>

“II. POSITIONS OF THE PARTIES A. Jim and Sandy Dannis Mr. and Mrs. Dannis stated that they filed the motion to disqualify Commissioner Harrington from hearing or otherwise participating in the instant proceeding in accordance with RSA 363:12 and RSA 21-G:22. According to the motion, Governor Lynch and the Executive Council confirmed Commissioner Harrington on March 7, 2012, and during the Council’s review, it came to light that Commissioner Harrington has a vested right to payment of a “sizeable” pension from Northeast Utilities (NU) based on his 20 year employment at Seabrook Station during a time when it was owned by PSNH, a subsidiary of NU, or by other NU subsidiaries. Dannis Motion to Disqualify (Dannis Motion) at 1. The Dannis motion claims that Commissioner Harrington’s NU pension constitutes a private interest which may affect or influence his perspective in hearing and ruling in the instant proceeding. Mr. Dannis said he and his wife are members of Responsible Energy Action, LLC (REAL), an advocacy group, which prepared a detailed analysis for the Executive Council in connection with Commissioner Harrington’s nomination to the Commission.³ Based on that analysis REAL concluded that Commissioner Harrington’s right to a pension from NU represents a material conflict of interest and a basis for disqualification. 3/12/12 Tr. at 21. **REAL looked at publicly available data on compensation and pension levels and the NU pension plan information on the NU website and estimated that Commissioner Harrington’s pension would pay him in the range of \$20,000 to \$70,000 per year.**⁴ Dannis testified that REAL also looked at actuarial tables and estimated that, Commissioner Harrington would be entitled to receive a projected cumulative amount of between \$400,000 and \$1.75 million in total pension benefits. Dannis claimed that the projected total pension payments are so large as to create an appearance of impartiality, an appearance of conflict, and an actual conflict. Id. at 22. “

(my emphasis.)

<https://www.puc.nh.gov/Regulatory/CASEFILE/2011/11-250/ORDERS/11-250%202012-04-03%20ORDER%20NO%2025-342%20DENYING%20MOTION%20TO%20DISQUALFY.PDF>

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