

Ethics CLE for Lawyers Presented at the 68th NECPUC Annual Symposium

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Case Studies for Discussion

The Case of the Unconnected Connection

X, a former private practice attorney, is a commissioner with the State PUC. Y is a contractor/developer. Ten years earlier, X's firm had done some legal work for Y. X had not done any of the work, but had become somewhat friendly with Y. Y had never paid his bills in full or on time, and had not been a client at the firm during the last several years that X had worked there. Nevertheless, the two remained on friendly terms.

Y is in the process of completing two spec houses, but is having difficulty getting them connected to the electrical grid. He needs to get them connected to close. There are no special issues, he just can't get anyone from the distribution company out to the site.

Y, knowing that X is now with the PUC, calls to see if he can help. Meanwhile, the distribution company has a number of cases pending on the PUC docket.

What can/should X do or not do?

The Case of the Utile Son

X receives a call on his office phone from another friend, Z, an attorney who regularly appears before the PUC. It seems that Z has a son, Z2, who recently graduated from college with an engineering degree... with honors. Like many of his fellow grads, Z2 has not been able to secure employment.

However, Z2 has recently applied for positions with the electric distribution company and the sewer management company, positions for which he is seemingly well qualified. Unfortunately, Z does not represent these companies, and his clients don't have any openings.

Z asks X if there is anything X can do. Both companies are regulated by the PUC.

What should X do? Has Z done anything improper?

The Case of the Liquid Partnership

By virtue of his position as commissioner, X knows that the water company is seeking to purchase or build a new facility to house its administrative offices; this was made very clear at the last rate hearing. Z is also aware of this because he had represented another party at the hearing.

Both X and Z have dabbled in real estate in the past, sometimes as partners. During the conversation about Z2, they start talking about the water company's desire for a new administration building. Z tells X he knows a perfect site, they can approach the owner (who is clueless about the water company), buy the property cheap, and then sell to the water company.

Z suggests that they form a partnership with their wives (who have their own careers) as the stated partners/owners, maybe they can even get a minority business loan.

What issues does Z's plan present?

The Case of the Commissioner Blowing in the Wind

X is nearing the end of his term as commissioner. Due to a regime change at the State House, reappointment seems far from certain. A proposed power purchase agreement for a wind turbine farm is on the docket for hearing. X has read all the filings and is pretty well convinced that the project, because of its exorbitant price, is not commercially reasonable as required by the statute. However, the governor and legislative leaders have been enthusiastic promoters of the project, claiming that it will bring jobs and help alleviate the meltdown currently underway in the Arctic Circle.

X has also had some vague preliminary discussions about joining the firm that is representing the renewable energy developer... it looks like those guys are doing well, judging by their cars.

What issues does X's employment situation and opportunities present?

The Case of the Honored Advisor

X has a policy advisor named T, who has job duties that include participating as commission staff in docketed matters, although T is not a decision-maker. T's background includes a PhD in atmospheric science and various science policy positions.

Because of his experience, T is invited to participate in a panel hosted by a policy research center titled, "Science, Policy, and Science Policy." T clarified with the center's staff that he could only present his personal thoughts and experience with science and policy, and could not discuss issues before the commission or commission policy. The center reaffirmed their invitation, and offers T a \$500 honorarium for participating. The center has never issued public comment or intervened in a commission docket.

Can T accept the honorarium? Should T recuse himself if, in the future, the center appears before the commission?