MOTION REQUESTING DISCLOSURE OF THE BASIS FOR NON-RECUSAL OR, IN
THE ALTERNATIVE, RECUSAL OF COMMISSIONER MCNAMEE

Regulatory Commission (“Commission” or “FERC”), 18 C.F.R. § 385.212 (2016), Natural
Resources Defense Council and Sierra Club (collectively “Clean Energy Advocates”) respect fully submit this motion requesting that Commissioner McNamee recuse himself from the above-captioned dockets, or, in the alternative, explain how his participation is consistent with due process and ethics obligations. As detailed below, as recently as 2017, Commissioner McNamee was employed by McGuireWoods LLP, whose clients include three parties with significant economic interests in the outcome of this proceeding— Dominion Energy Services, Inc. (“Dominion”), Duke Energy Corporation (“Duke”), and Direct Energy, Inc. Commissioner McNamee has declined to participate in numerous dockets involving these parties.¹

Commissioner McNamee’s participation in a recent decision in this proceeding, however, reveals

¹ See Exhibit A, Non-Exhaustive List of McNamee Recusals (listing more than 20 dockets, involving at least one of the three former clients, in which Commissioner recused himself).
that he has not recused himself ² despite his former clients’ clear economic interests in the outcome. If the Commission were to issue an order instituting tariff changes that directly and predictably affect the financial interests of Commissioner McNamee’s former clients, it would cause a reasonable person to question the impartiality of this proceeding. Recusal is called for under these circumstances even absent any finding of actual bias. Clean Energy Advocates thus request that Commissioner McNamee recuse himself from the proceeding. Maintaining public confidence in the integrity and impartiality of the Commission and its decisionmaking is essential, and recusal under these circumstances serves as an important safeguard of due process, rule of law, and perception of fairness. At minimum, Commissioner McNamee should explain his participation in this proceeding in light of the significant apparent conflicts. Clean Energy Advocates respectfully request that a written explanation for this determination be placed in the record.³

**Statement of Relevant Facts**

This ongoing proceeding concerns the treatment of resources that receive out-of-market support in the capacity market operated by PJM Interconnection, Inc. (“PJM”). On March 21, 2016, a group of generation resource owners filed a complaint under Section 206 of the Federal Power Act (“FPA”)⁴ alleging that PJM’s tariff was unjust and unreasonable “because it does not include provisions to prevent the artificial suppression of prices by existing generation resources

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² See PJM Interconnection, L.L.C., Order on Motion for Supplemental Clarification, Docket No. EL18-178-000 (McNamee, Comm’r, concurring) (July 25, 2019).
³ If Commissioner McNamee has obtained authorization to participate in these proceedings from the Commission’s designated ethics officer pursuant to 5 C.F.R. § 2635.502(d), Clean Energy Advocates respectfully request a written explanation for this determination.
⁴ 16 U.S.C. § 824e.
that are the beneficiaries of out-of-market revenues.”\(^5\) While that complaint was pending, PJM itself filed two alternative sets of proposed tariff changes for its capacity market under FPA Section 205\(^6\), intended to address the purported price-suppressive effects of resources receiving support from state policies.\(^7\) On June 29, 2018, the Commission issued a consolidated order for both proceedings, finding that PJM’s capacity market was unjust and unreasonable because its existing market rules did not adequately address “the price suppressive impact of resources receiving out-of-market support,” rejecting the various replacement rates proposed by the generators and PJM.\(^8\) Accordingly, the Commission initiated \textit{sua sponte} a proceeding under FPA Section 206 to find a just and reasonable replacement rate.\(^9\)

At least three of Commissioner McNamee’s former clients are actively participating in this proceeding, and have engaged in the docket since 2016 through and including the period during which Commissioner McNamee represented clients at his former law firm, McGuireWoods, LLP. Dominion has intervened, submitted comments, and sought rehearing of a Commission determination in this proceeding on behalf of its public utility affiliate, Virginia Electric and Power Company d/b/a Dominion Virginia.\(^10\) Duke has also actively participated in


\(^6\) 16 U.S.C. § 824d.

\(^7\) \textit{PJM Interconnection, L.L.C.}, Capacity Repricing or in the Alternative MOPR-Ex Proposal: Tariff Revisions to Address Impacts of State Public Policies on the PJM Capacity Market, Docket No. ER18-1314-000 (Apr. 9, 2018).


\(^9\) \textit{Id.} at PP 5–6.

the docket on behalf of itself and its affiliates from 2016 to the present. Direct Energy Business LLC (“Direct Energy”), which is wholly owned by Centrica PLC, has also participated throughout the proceeding and advocates for changes to PJM tariffs consistent with its financial interests. Both Dominion and Duke have advocated for exceptional treatment of their resources under the PJM capacity market rules that are the subject of this proceeding, and determination of the matters in the docket will incontrovertibly directly impact their financial interests. In its filings, Dominion has urged that any replacement rate distinguish between resources owned by “Integrated Public Utilities” subject to regulation by state public utility commissions (such as Virginia Electric and Power Company) from resources in restructured states, arguing that state-regulated utilities’ self-supply resources should not be subject to a revised minimum offer price rule (“MOPR”) or other mitigation in the capacity market. Dominion’s filings emphasize the importance of this MOPR exception to its financial interests, calling it “critical” and describing how equal application of MOPR to its resources may cause its resources to “not clear the market” and require it to “be forced to purchase capacity through the [Reliability Pricing Mechanism].” Likewise, Duke argues that, although state-regulated cost recovery through retail rates could be considered a “material subsidy” triggering the MOPR,

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13 Dominion Comment at 3–4; see also Dominion Request for Rehearing at 16 (“Vertically integrated utilities should be exempt from price mitigation”).
14 Dominion Request for Rehearing at 7.
15 Dominion Comment at 15.
an exception should apply to the benefit of its resources.\textsuperscript{16} Duke further raised its concerns over the treatment of a particular power purchase agreement between the Ohio Valley Electric Corporation ("OVEC") and several companies, including one of Duke’s affiliates.\textsuperscript{17} Duke advocated for an even broader carve-out that would ensure that payments pursuant to the OVEC agreement would not trigger MOPR, to the financial benefit of its affiliate.\textsuperscript{18} Direct Energy, Inc. is generally supportive of an expanded MOPR with minimal exceptions, but advocates for changes to the reference price formula that would apply to existing resources newly affected by an expanded MOPR.\textsuperscript{19}

According to Commissioner McNamee’s Executive Branch Personnel Public Financial Disclosure Report submitted to the Office of Government Ethics, he was employed at the law firm McGuireWoods, LLP for a period including January 2016 to May 2017.\textsuperscript{20} The report indicates that Commissioner McNamee received over $5,000 in a year from Dominion for “[l]egal services to Dominion Energy Services’ affiliates Virginia Electric and Power Company d/b/a Dominion Virginia Power and Dominion North Carolina Power (clients of McGuireWoods LLP).”\textsuperscript{21} Likewise, the report discloses that Commissioner McNamee received payments triggering reporting requirements from Direct Energy, Inc. for legal services as a client of McGuireWoods LLP.\textsuperscript{22} It is not clear whether Commissioner McNamee directly advised

\begin{footnotes}
\item[17]Id. at 5.
\item[18]Id. at 6.
\item[21]Id.
\item[22]Id.
\end{footnotes}
Dominion or Direct Energy, Inc. on matters related to Docket EL16-49, the complaint that is the origin of this proceeding. Public records indicate that Commissioner McNamee advised and represented Dominion regarding cost-recovery for resources participating in PJM’s capacity market, resources that will be directly and predictably affected by the decision pending in this proceeding.23

After Commissioner McNamee was nominated by the President, he submitted a letter to the Commission’s DAEO detailing “the steps that I will take to avoid any actual or apparent conflict of interest” as a Commissioner.24 Among other things, Commissioner McNamee committed to signing the Ethics Pledge (Exec. Order No. 13770), and indicated that he understood that he is subject to the standards of ethical conduct for employees of the Executive Branch.25 Commissioner McNamee was confirmed by the Senate on December 6, 2018, and sworn in to the Commission on December 11, 2018.26

Legal Background

Commission members are subject to several overlapping sets of ethical standards. Executive Order No. 13770 consists of an ethics pledge that every appointee to an executive

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25 Id.

agency is required to sign. Among others, it includes the following commitment: “I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly and substantially related to my former employer or former clients, including regulations and contracts.”

The Commission is also obligated to follow rules issues by the Office of Government Ethics (“OGE”). Under OGE’s regulation, 5 C.F.R. § 2635.502, an employee is prohibited from participating in matters in which an entity with whom the employee has had an attorney-client relationship in the past year, and in which the employee knows a reasonable person is likely to question his impartiality, without first obtaining approval from the Designated Agency Ethics Official (“DAEO”). In adopting these provisions, OGE recognized that “employees have long been obligated to act impartially and to avoid even the appearance of loss of impartiality” and sought to put in place “a specific mechanism to resolve difficult issues of whether, in particular circumstances, a possible appearance of loss of impartiality is so significant that it should disqualify them from participation in particular matters.”

Similarly,

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28 Id. Executive Order 13770 defines a “former client” as “any person for whom the appointee served personally as agent, attorney, or consultant within the 2 years prior to the date of his or her appointment, but excluding instances where the service provided was limited to a speech or similar appearance. It does not include clients of the appointee’s former employer to whom the appointee did not personally provide services.”
29 18 C.F.R. § 3c.1.
31 See e.g., Letter from Kevin J. McIntyre to DAEO Charles A. Beamon (Aug. 22, 2017) (agreeing to recuse from all matters in which his former firm is a party or represents a party for one year pursuant to 5 C.F.R. § 2635.502(d)); Re Union Oil Co. of California, 23 F.P.C. 73, 77
Commission employees regularly recuse themselves from matters involving prospective employers. As DAEO Charles Beamon has described agency practice, “FERC . . . must prioritize integrity, impartiality, fairness, transparency, and due process in their proceedings” and participants in the proceedings must be “above reproach” avoiding “even the slightest appearance of impropriety.”

The above requirements safeguard not just public confidence in the integrity of government decision-making, but the constitutional right to due process as well. “A fair trial in a fair tribunal is a basic requirement of due process.” Due process protections apply to administrative agency adjudications, and mandate recusal not only where an adjudicator has a personal or substantial interest in the matter, but also where there is a reasonable appearance of impropriety.


Charles Beamon, Michael Korwin, & Jeffrey Pienta, Ethics Issues Common to Regulatory Agencies, Presentation at the 2014 National Government Ethics Summit, at Slide 4 (Sept. 23, 2014), https://www.oge.gov/web/OGE.nsf/0/7C20A2E3883343F78525815A0059B76A/$FILE/PR_Korwin_Issues%20Regulatory%20Agencies.pdf; see also FERC Chairman Kevin McIntyre Charges Full Steam Ahead, ENERGY BAR ASSOCIATION UPDATE (Chairman McIntyre described as cheerfully following these requirements for recusal because, as McIntyre explained, he is “very much a ‘rule of law’ guy.”), https://www.ebanet.org/assets/1/6/2018EBAMemberAuthoredArticleChairmanMcIntyreInterview.pdf.


“direct, personal, substantial, pecuniary interest” that may affect her impartiality,\textsuperscript{36} but under any circumstances that create the “appearance of bias”\textsuperscript{37} or “probability of bias.”\textsuperscript{38} These protections are implemented by “objective standards that do not require proof of actual bias.”\textsuperscript{39} While such a “stringent rule” may sometimes demand recusal by adjudicators “who have no actual bias and who would do their very best to weigh the scales of justice equally between contending parties,” endeavoring to prevent “even the probability of unfairness” safeguards critical values including public confidence in the institution.\textsuperscript{40} As the Supreme Court succinctly explained: “To perform its high function in the best way ‘justice must satisfy the appearance of justice.’”\textsuperscript{41}

Recusal is required where “a disinterested observer may conclude that the [adjudicator] has in some measure adjudged the facts as well as the law of a particular case in advance of

\begin{footnotes}
\item[36] Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 876–77 (2009) (“the Court has identified additional instances which, as an objective matter, require recusal. These are circumstances ‘in which experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.’”) (quoting Withrow, 421 U.S. at 47).
\item[37] Mitchell v. Sirica, 502 F.2d 375, 382–83 (D.C. Cir. 1974) (“This circuit also has adopted the appearance of bias test, with specific reference to the prejudgment of issues in administrative agency disqualification cases.”) (citations omitted); Kennecott Copper Corp. v. F.T.C., 467 F.2d 67, 79–80 (10th Cir. 1972) (“The rule is that a Commissioner must be disqualified if he or she has prejudged the case or has given a reasonable appearance of having prejudged it.”).
\item[38] Caperton, 556 U.S. at 883–84.
\item[39] Id. at 883; Hurles v. Ryan, 752 F.3d 768, 789 (9th Cir. 2014) (must assess risk of bias “under a realistic appraisal of psychological tendencies and human weakness”) (internal quotation omitted).
\item[40] Murchisen, 349 U.S. at 136; see Mistretta v. United States, 488 U.S. 361, 407 (1989) (“The legitimacy of the Judicial Branch ultimately depends on its reputation for impartiality and nonpartisanship.”); Wersal v. Sexton, 674 F.3d 1010, 1022 (8th Cir. 2012) (“‘maintaining the appearance of impartiality is systemic in nature, as it is essential to protect the judiciary’s reputation for fairness in the eyes of all citizens . . . public confidence in the judiciary is integral to preserving our justice system.’”); Gilligan, Will & Co. v. SEC, 267 F.2d 461, 468–69 (2d Cir. 1959) (failing to address appearance of prejudgment opens “the Commission’s reputation for objectivity and impartiality” to challenge).
hating it." The standard is an objective one and focuses on an “average” decisionmaker without presumption of superior honesty or integrity. The factfinder need not determine, or even inquire, whether an adjudicator’s mind is actually closed on the matters at issue; recusal is called for where an “equally fair interpretation” of the circumstances reflects “prejudgment of a material issue.” In most circuits confronting the issue, the failure of even a single adjudicator on a multi-member body to recuse where due process so requires warrants reversal of the decision, regardless of whether the member affected by an appearance of bias is the deciding vote. 

Additionally, due process considerations require that an adjudicator “who participates in a case on behalf of any party, whether actively or merely formally by being on pleadings or briefs take no part in the decision of that case by any tribunal on which he may thereafter sit.”


43 Caperton, 556 U.S at 885 (“Due process requires an objective inquiry” into whether the circumstances “offer a possible temptation to an average judge.”) (Internal quotation omitted).

44 Mitchell, 502 F.2d at 387.

45 Berkshire Employees Ass’n of Berkshire Knitting Mills v. N.L.R.B., 121 F.2d 235, 239 (3d Cir. 1941) (“Litigants are entitled to an impartial tribunal whether it consists of one man or twenty and there is no way which we know of whereby the influence of one upon the others can be quantitatively measured”); Cinderella Career & Finishing Sch., 425 F.2d at 592 (no way of determining the extent to which one biased member’s views affect the deliberations of a supposedly impartial tribunal); Hicks v. City of Watonga, 942 F.2d 737, 748 (10th Cir. 1991) (concluding that the plaintiff could make out a due process claim by showing bias on the part of only one member of the tribunal); Wilkerson v. Johnson, 699 F.2d 325, 328–29 (6th Cir. 1983) (bias of one member of a four person application board sufficient to deny due process); Antoniu, 877 F.2d at 726 (vacating commission decision even though biased commissioner belatedly recused himself); Stivers v. Pierce, 71 F.3d 732, 748 (9th Cir. 1995) (“plaintiff need not demonstrate that the biased member’s vote was decisive or that his views influenced those of other members”).

46 Trans World Airlines, Inc. v. Civil Aeronautics Bd., 254 F.2d 90, 91 (D.C. Cir. 1958); see also Laird v. Tatum, 409 U.S. 824, 828–29 (1972) (standard for judicial disqualification includes merely signing a brief or pleading or actively participating even without signing a brief or
This legal principle is deeply rooted in the “venerable tradition” that no man shall judge his own cause.\textsuperscript{47} Cases upholding this legal principle reflect that, as a matter of law and independent from any (or lack of) evidence of actual bias, participating both as advocate and as decisionmaker in the same matter poses a constitutionally unacceptable risk of bias.\textsuperscript{48}

**Argument**

I. **Commissioner McNamee should recuse himself from the FPA Section 206 Proceeding to determine a replacement rate for PJM’s capacity market in light of his past clients’ significant financial stake in the outcome.**

Clean Energy Advocates respectfully urge Commissioner McNamee to recuse himself from this matter involving former clients. Dominion has forcefully advocated for its position in this proceeding, arguing that state-regulated integrated utilities should not be subject to a revised MOPR in PJM’s capacity market. Duke has requested even more particular exceptions from MOPR to protect the particular financial interests of its affiliates, while Direct Energy, Inc. has similarly advocated rigorously for its interests. Commissioner McNamee is in a position to make these requests a reality. Should the Commission issue an order establishing a replacement rate that, for example, instituted new MOPR rules with exemptions benefitting state-regulated

\begin{itemize}
\item \textit{Lead Industries Ass’n v. EPA}, 647 F.2d 1130, 1176 (D.C. Cir. 1980) (emphasizing that the EPA official had “never appeared in or in any way participated on NRDC’s behalf in the EPA proceedings” to establish a particular pollution standard in upholding a decision not to recuse);
\item \textit{Amos Treat & Co. v. SEC}, 306 F.2d 260, 266–67 (D.C. Cir. 1962).
\end{itemize}

\begin{itemize}
\item \textit{Am. Gen. Ins. Co. v. F.T.C.}, 589 F.2d 462, 463–65 (9th Cir. 1979).
\item \textit{Id.} at 465 (“mere responsibility for administrative supervision of the Department, regardless of the extent of his knowledge and his approval of the acts of his subordinates, has been deemed sufficient to activate the disqualification rule”); \textit{State ex rel. Ellis v. Kelly}, 145 W. Va. 70, 75–76 (W. Va. 1960) (“It can hardly be contended that the commissioner, in the making of the investigation and in testifying before the deputy commissioner appointed by him and responsible to him, beyond any reasonable probability, did not become biased and prejudiced in the matter being heard.”); \textit{Anderson v. Indus. Comm’n of Utah}, 696 P.2d 1219, 1221 (Utah 1985) (“In other words, when a judge has previously been involved in a case as an attorney, there is no need to show actual prejudice. The law presumes prejudice in such circumstances.”).
\end{itemize}
integrated utilities like Dominion, or carving out state support like the OVEC power purchase agreement to the benefit of Duke, it would cause a reasonable person to question the impartiality of the proceeding. This appearance of potential bias, irrespective of the presence of actual bias, warrants Commissioner McNamee’s recusal in this proceeding.

The OGE regulations make clear that a “covered relationship” (such as an attorney-client relationship) can require recusal even after the relationship has concluded. The regulations give the following illustrative example:

Example 4: An engineer has just resigned from her position as vice president of an electronics company in order to accept employment with the Federal Aviation Administration in a position involving procurement responsibilities. Although the employee did not receive an extraordinary payment in connection with her resignation and has severed all financial ties with the firm, under the circumstances she would be correct in concluding that her former service as an officer of the company would be likely to cause a reasonable person to question her impartiality if she were to participate in the administration of a DOT contract for which the firm is a first-tier subcontractor.49

According the Commission’s DAEO, in implementing 5 C.F.R. § 2635.502, “FERC presumes that an employee’s impartiality would be questioned if (s)he participated in a prior employer’s matter within a year”; the Commission thus restricts employees from working for their previous employer for at least one year.50 Similarly, the Ethics Pledge requires executive appointees to refrain from participating in any matter involving a former client for two years from the date of appointment.51 Thus, in light of both Commission practice and the executive branch-wide Ethics Pledge, Commissioner McNamee’s remunerative attorney-client relationship with Dominion,

49 5 C.F.R. § 2635.502 (emphasis added).
50 Beamon et al., supra note 32 at Slide 12.
51 Executive Order 13770.
Duke, and Direct Energy, Inc. presents a conflict of interest warranting recusal from this proceeding.

The temporal restriction on participation in matters involving prior employers or clients should be understood as extending to all such proceedings that began before or within the Ethics Pledge’s two-year window. Proceedings at the Commission can last for well over two years, and an official ethically restricted from participating in a proceeding should not be able to insert himself or herself into that proceeding once the two-year window elapsed. Permitting such behavior would reduce ethical rules intended to preserve the integrity of government decision-making in the public eye to a mere formality. Broadly construing the Ethics Pledge’s two-year window also provides an additional safeguard against officials influencing matters they may have directly or indirectly participated in during prior employment. Indeed, the FPA Section 206 complaint that initiated the current proceeding was filed on March 21, 2016, and Dominion made numerous filings in that initial docket in subsequent months—a period that coincides with Commissioner McNamee’s representation of Dominion at McGuireWoods LLP. Regardless of whether Commissioner McNamee in fact advised Dominion regarding the initial Section 206 complaint, recusal would have the salutary effect of preventing any appearance of a conflict of interest.

52 Calpine Corporation et al. v. PJM Interconnection, L.L.C., Protest of Dominion Resources Services, Inc. et al., Docket No. EL16-49-000 (Apr. 11, 2016); Calpine Corporation et al. v. PJM Interconnection, L.L.C., Motion for Leave to Answer and Answer of Dominion Resources Services, Inc. et al., Docket No. EL16-49-000 (Apr. 25, 2016); Calpine Corporation et al. v. PJM Interconnection, L.L.C., Motion to Dismiss of Dominion Resources Services, Inc. et al., Docket No. EL16-49-000 (May 6, 2016).
53 Both Dominion and Direct Energy, Inc. retained law firms other than McGuireWoods LLP for these filings. It remains unclear whether Commissioner McNamee advised either Dominion of Direct Energy, Inc. regarding the initial Section 206 complaint during this period.
With the exception of the instant proceeding, Commissioner McNamee has largely recused himself from matters involving former clients Dominion, Duke, and Direct Energy. To avoid the appearance of bias and preserve the due process rights of the parties, Clean Energy Advocates respectfully request Commissioner McNamee’s recusal in this proceeding as well.

II. Commissioner McNamee must explain the basis for his failure to recuse.

Commissioner McNamee’s prior relationship with Dominion, Duke, and Direct Energy, Inc. as clients of McGuireWoods LLP during the pendency of this proceeding, as well as his regular recusal from other matters in which these parties are substantially engaged, strongly suggest he must recuse himself from this proceeding. At minimum, Commissioner McNamee should explain how his participation in this docket is consistent with due process and ethics rules. Absent an explanation, parties have no record basis for concluding that the Commission is acting as an impartial adjudicator in this proceeding. Transparency and disclosure of the basis for Commissioner McNamee’s decision to participate in this matter is an essential step toward achieving a core objective of due process and federal ethics law: avoiding even the appearance of bias.55

Conclusion

For the foregoing reasons, Clean Energy Advocates respectfully request that Commissioner McNamee explain his basis for failing to recuse himself from this proceeding. In the absence of any information in the public record justifying that failure to recuse, Clean Energy Advocates further request his recusal from the proceeding.

54 Supra, note 1.
55 See e.g., Supplemental Standards of Ethical Conduct for Employees of the Federal Energy Regulatory Commission, 61 Fed. Reg. 43,411, 43,412 (omitting a requirement for FERC commissioners to submit separate documentation of their recusals because commissioners “indicate their nonparticipation in public matters on the public record”).
Respectfully submitted,

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For Natural Resources Defense Council
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC this 9th day of September, 2019.

/s/ Mario A. Luna
Mario A. Luna
Litigation Assistant
1625 Massachusetts Avenue, NW, Suite 702
Washington, DC 20036
(202) 667-4500
aluna@earthjustice.org
Exhibit A
Non-Exhaustive List of McNamee Recusals
## Non-exhaustive list of Commissioner McNamee’s Recusals

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<tr>
<th>Docket Number</th>
<th>Case Caption</th>
<th>Relevant Parties</th>
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<td>Black Oak Energy, LLC, EPIC Merchant Energy, LP and SESCO Enterprises, LLC v. PJM Interconnection, L.L.C.</td>
<td>Duke Energy Ohio, Inc.  Dominion Resources Services</td>
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<td>Virginia Electric and Power Company  PJM Interconnection, L.L.C.</td>
<td>Dominion Energy Services, Inc</td>
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<td>Dominion Energy Resources, Inc.  (complainant in original docket)</td>
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<td>Inquiry Regarding the Commission’s Policy for Recovery of Income Tax Costs</td>
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### Non-exhaustive list of Commissioner McNamee’s Recusals

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<td>EL19-51-000</td>
<td>Cube Yadkin Generation, L.L.C. v. PJM Interconnection, L.L.C.</td>
<td>Dominion Energy Services, Inc.</td>
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Non-exhaustive list of Commissioner McNamee’s Recusals

| ER19-1156-000 |                                            |                                                   |
| CP18-6-001   | RH energytrans, LLC                        | East Ohio Gas Company d/b/a Dominion Energy Ohio |
|              |                                            |                                                   |
Exhibit B

Executive Branch Personnel
Public Financial Disclosure Report (OGE Form 278e)

Filer's Information

McNamee, Bernard L
Commissioner, Federal Energy Regulatory Commission

Other Federal Government Positions Held During the Preceding 12 Months:
Executive Director, Office of Policy, U.S. Dept. of Energy (6/2018 - Present) See endnote

Names of Congressional Committees Considering Nomination:
- Committee on Energy and Natural Resources

Electronic Signature - I certify that the statements I have made in this form are true, complete and correct to the best of my knowledge.

/js/ McNamee, Bernard L [electronically signed on 08/06/2018 by McNamee, Bernard L in Integrity.gov]

Agency Ethics Official's Opinion - On the basis of information contained in this report, I conclude that the filer is in compliance with applicable laws and regulations (subject to any comments below).

/js/ Allen, Kathryn B, Certifying Official [electronically signed on 10/05/2018 by Allen, Kathryn B in Integrity.gov]

Other review conducted by
U.S. Office of Government Ethics Certification

/s/ Rounds, Emory, Certifying Official [electronically signed on 10/05/2018 by Rounds, Emory in Integrity.gov]
### 1. Filer’s Positions Held Outside United States Government

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<td>McGuireWoods LLP</td>
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<td>Law Firm</td>
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<td>Non-Profit</td>
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<td>5/2018</td>
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### 2. Filer’s Employment Assets & Income and Retirement Accounts

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<th>EIF</th>
<th>VALUE</th>
<th>INCOME TYPE</th>
<th>INCOME AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>McGuireWoods LLP (law firm)</td>
<td>N/A</td>
<td></td>
<td>Salary/Bonus</td>
<td>$164,257</td>
</tr>
<tr>
<td>2</td>
<td>Commonwealth of Virginia, VRS defined benefit plan, (not readily ascertainable value)</td>
<td>See Endnote</td>
<td>N/A</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>State of Texas Employees Retirement System of Texas, defined benefit plan, (not readily ascertainable value)</td>
<td>See Endnote</td>
<td>N/A</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Texas Public Policy Foundation</td>
<td>N/A</td>
<td></td>
<td>Salary</td>
<td>$47,051</td>
</tr>
<tr>
<td>5</td>
<td>State of Texas Empower Retirement, LifePath Index 2030 Fund F</td>
<td>Yes</td>
<td>$1,001 - $15,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>#</td>
<td>DESCRIPTION</td>
<td>EIF</td>
<td>VALUE</td>
<td>INCOME TYPE</td>
<td>INCOME AMOUNT</td>
</tr>
<tr>
<td>---</td>
<td>------------------------------------</td>
<td>-----</td>
<td>---------------------</td>
<td>------------------------------</td>
<td>-----------------------------</td>
</tr>
<tr>
<td>6</td>
<td>T. Rowe Price Blue Chip Growth Fund</td>
<td>Yes</td>
<td>$1,001 - $15,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>T. Rowe Price Capital Opportunity Fund</td>
<td>Yes</td>
<td>$1,001 - $15,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>McGuireWoods LLP 401(k)</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8.1</td>
<td>T. Rowe Price Retirement 2030 Tr. A</td>
<td>Yes</td>
<td>$500,001 - $1,000,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Hunton &amp; Williams LLP 401(k)</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9.1</td>
<td>Vanguard Institutional Index Plus</td>
<td>Yes</td>
<td>$15,001 - $50,000</td>
<td>$201 - $1,000</td>
<td></td>
</tr>
<tr>
<td>9.2</td>
<td>Dodge &amp; Cox Stock Fund</td>
<td>Yes</td>
<td>$1,001 - $15,000</td>
<td>$201 - $1,000</td>
<td></td>
</tr>
<tr>
<td>9.3</td>
<td>Fidelity Diversified International K fund</td>
<td>Yes</td>
<td>$1,001 - $15,000</td>
<td>$201 - $1,000</td>
<td></td>
</tr>
<tr>
<td>9.4</td>
<td>Fidelity Puritan K fund</td>
<td>Yes</td>
<td>$15,001 - $50,000</td>
<td>$201 - $1,000</td>
<td></td>
</tr>
</tbody>
</table>

### 3. Filer's Employment Agreements and Arrangements

<table>
<thead>
<tr>
<th>#</th>
<th>EMPLOYER OR PARTY</th>
<th>CITY, STATE</th>
<th>STATUS AND TERMS</th>
<th>DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>McGuireWoods LLP</td>
<td>Richmond, Virginia</td>
<td>I will continue to hold the 401 (k) account. The employer did not and will not make contributions.</td>
<td>2/2006</td>
</tr>
<tr>
<td>2</td>
<td>Hunton &amp; Williams LLP</td>
<td>Richmond, Virginia</td>
<td>I will continue to hold the 401(k) account. The employer did not and will not make contributions.</td>
<td>2/1998</td>
</tr>
<tr>
<td>3</td>
<td>State of Texas</td>
<td>Austin, Texas</td>
<td>I will continue to hold this defined contribution plan, but the plan sponsor no longer makes contributions.</td>
<td>11/2014</td>
</tr>
<tr>
<td>4</td>
<td>Commonwealth of Virginia</td>
<td>Richmond, Virginia</td>
<td>I will continue to participate in this defined benefit plan.</td>
<td>2/1995</td>
</tr>
</tbody>
</table>

McNamee, Bernard L - Page 4
4. Filer's Sources of Compensation Exceeding $5,000 in a Year

<table>
<thead>
<tr>
<th>#</th>
<th>SOURCE NAME</th>
<th>CITY, STATE</th>
<th>BRIEF DESCRIPTION OF DUTIES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Texas Public Policy Foundation</td>
<td>Austin, Texas</td>
<td>Director of Life: Powered and Director of the Center for Tenth Amendment Action</td>
</tr>
<tr>
<td>2</td>
<td>McGuireWoods LLP</td>
<td>Richmond, Virginia</td>
<td>Provided representation and advice to law firm's clients.</td>
</tr>
<tr>
<td>3</td>
<td>Dominion Energy Services Inc.</td>
<td>Richmond, Virginia</td>
<td>Legal services to Dominion Energy Services' affiliates Virginia Electric and Power Company d/b/a Dominion Virginia Power and Dominion North Carolina Power (clients of McGuireWoods LLP)</td>
</tr>
<tr>
<td>4</td>
<td>Direct Energy, Inc.</td>
<td>Richmond, Virginia</td>
<td>Legal services (client of McGuireWoods LLP)</td>
</tr>
<tr>
<td>5</td>
<td>NOVI Energy</td>
<td>Richmond, Virginia</td>
<td>Legal services to subsidiary City Point Energy Center LLC (client of McGuireWoods LLP)</td>
</tr>
</tbody>
</table>

5. Spouse's Employment Assets & Income and Retirement Accounts

<table>
<thead>
<tr>
<th>#</th>
<th>DESCRIPTION</th>
<th>EIF</th>
<th>VALUE</th>
<th>INCOME TYPE</th>
<th>INCOME AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Hunton &amp; Williams LLP 401(k)</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.1</td>
<td>Fidelity NB Genesis R6</td>
<td>Yes</td>
<td>$50,001 - $100,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>&quot;Susanna's Midnight Ride&quot;, self-published (value not readily ascertainable)</td>
<td>See Endnote</td>
<td>Book sales</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
## 6. Other Assets and Income

<table>
<thead>
<tr>
<th>#</th>
<th>DESCRIPTION</th>
<th>EIF</th>
<th>VALUE</th>
<th>INCOME TYPE</th>
<th>INCOME AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Virginia 529 Chesapeake Plan/Age Based Portfolio 2021</td>
<td>See Endnote</td>
<td>Yes</td>
<td>$15,001 - $50,000</td>
<td>None (or less than $201)</td>
</tr>
<tr>
<td>2</td>
<td>Virginia Pre Paid Tuition</td>
<td>See Endnote</td>
<td>N/A</td>
<td>$15,001 - $50,000</td>
<td>None (or less than $201)</td>
</tr>
<tr>
<td>3</td>
<td>T. Rowe Price Spectrum Growth Fund</td>
<td>Yes</td>
<td>$15,001 - $50,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Vanguard 500 Index Admiral Shares</td>
<td>Yes</td>
<td>$100,001 - $250,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>U.S. bank #1 money market account/checking (cash)</td>
<td>N/A</td>
<td>$100,001 - $250,000</td>
<td>Interest</td>
<td>$201 - $1,000</td>
</tr>
<tr>
<td>6</td>
<td>U.S. bank #1 savings account (cash)</td>
<td>N/A</td>
<td>$100,001 - $250,000</td>
<td>Interest</td>
<td>$201 - $1,000</td>
</tr>
<tr>
<td>7</td>
<td>U.S. credit union #1 savings account (cash)</td>
<td>N/A</td>
<td>$1,001 - $15,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Local Finance Solutions stock (investment and accounting services)</td>
<td>N/A</td>
<td>$1,001 - $15,000</td>
<td>Dividends</td>
<td>$1,001 - $2,500</td>
</tr>
<tr>
<td>9</td>
<td>Fidelity Growth Strategies Fund</td>
<td>Yes</td>
<td>$1,001 - $15,000</td>
<td>None (or less than $201)</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>U.S. bank #2 checking account (cash)</td>
<td>N/A</td>
<td>$1,001 - $15,000</td>
<td>Interest</td>
<td>None (or less than $201)</td>
</tr>
<tr>
<td>11</td>
<td>BSM Trust</td>
<td>No</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>11.1</td>
<td>Sterling Capital Equity Fund</td>
<td>Yes</td>
<td>$50,001 - $100,000</td>
<td>$2,501 - $5,000</td>
<td></td>
</tr>
<tr>
<td>11.2</td>
<td>Vanguard Index 500</td>
<td>Yes</td>
<td>$100,001 - $250,000</td>
<td>$2,501 - $5,000</td>
<td></td>
</tr>
</tbody>
</table>
7. Transactions

(N/A) - Not required for this type of report

8. Liabilities

<table>
<thead>
<tr>
<th>#</th>
<th>CREDITOR NAME</th>
<th>TYPE</th>
<th>AMOUNT</th>
<th>YEAR INCURRED</th>
<th>RATE</th>
<th>TERM</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Well Fargo Home Mortgage</td>
<td>Mortgage on Personal Residence</td>
<td>$15,001 - $50,000</td>
<td>2015</td>
<td>3.25%</td>
<td>15 years</td>
</tr>
</tbody>
</table>

9. Gifts and Travel Reimbursements

(N/A) - Not required for this type of report
### Endnotes

<table>
<thead>
<tr>
<th>PART</th>
<th>#</th>
<th>ENDNOTE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filer’s Information</td>
<td>2</td>
<td>This position started as an acting position. I had been rehired as Deputy General Counsel for Energy Policy and then detailed to be Executive Director, Office of Policy.</td>
</tr>
<tr>
<td>2.</td>
<td>2</td>
<td>Total annuity value not readily ascertainable, present cash value is between $50,000 and $100,000.</td>
</tr>
<tr>
<td>2.</td>
<td>3</td>
<td>Total annuity value not readily ascertainable, present cash value is between $1,001 and $15,000.</td>
</tr>
<tr>
<td>5.</td>
<td>2</td>
<td>My wife is a writer and self-published a book July 2018.</td>
</tr>
<tr>
<td>6.</td>
<td>1</td>
<td>Held for benefit of dependent child.</td>
</tr>
<tr>
<td>6.</td>
<td>2</td>
<td>Held for the benefit of dependent child.</td>
</tr>
</tbody>
</table>
Summary of Contents

1. Filer's Positions Held Outside United States Government

Part 1 discloses positions that the filer held at any time during the reporting period (excluding positions with the United States Government). Positions are reportable even if the filer did not receive compensation.

This section does not include the following: (1) positions with religious, social, fraternal, or political organizations; (2) positions solely of an honorary nature; (3) positions held as part of the filer's official duties with the United States Government; (4) mere membership in an organization; and (5) passive investment interests as a limited partner or non-managing member of a limited liability company.

2. Filer's Employment Assets & Income and Retirement Accounts

Part 2 discloses the following:

- Sources of earned and other non-investment income of the filer totaling more than $200 during the reporting period (e.g., salary, fees, partnership share, honoraria, scholarships, and prizes)
- Assets related to the filer's business, employment, or other income-generating activities that (1) ended the reporting period with a value greater than $1,000 or (2) produced more than $200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, deferred compensation, and intellectual property, such as book deals and patents)

This section does not include assets or income from United States Government employment or assets that were acquired separately from the filer's business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account). Note: The type of income is not required if the amount of income is $0 - $200 or if the asset qualifies as an excepted investment fund (EIF).

3. Filer's Employment Agreements and Arrangements

Part 3 discloses agreements or arrangements that the filer had during the reporting period with an employer or former employer (except the United States Government), such as the following:

- Future employment
- Leave of absence
- Continuing payments from an employer, including severance and payments not yet received for previous work (excluding ordinary salary from a current employer)
- Continuing participation in an employee welfare, retirement, or other benefit plan, such as pensions or a deferred compensation plan
- Retention or disposition of employer-awarded equity, sharing in profits or carried interests (e.g., vested and unvested stock options, restricted stock, future share of a company's profits, etc.)
4. Filer’s Sources of Compensation Exceeding $5,000 in a Year

Part 4 discloses sources (except the United States Government) that paid more than $5,000 in a calendar year for the filer’s services during any year of the reporting period.

The filer discloses payments both from employers and from any clients to whom the filer personally provided services. The filer discloses a source even if the source made its payment to the filer’s employer and not to the filer. The filer does not disclose a client’s payment to the filer’s employer if the filer did not provide the services for which the client is paying.

5. Spouse’s Employment Assets & Income and Retirement Accounts

Part 5 discloses the following:

- Sources of earned income (excluding honoraria) for the filer’s spouse totaling more than $1,000 during the reporting period (e.g., salary, consulting fees, and partnership share)
- Sources of honoraria for the filer’s spouse greater than $200 during the reporting period
- Assets related to the filer’s spouse’s employment, business activities, other income-generating activities that (1) ended the reporting period with a value greater than $1,000 or (2) produced more than $200 in income during the reporting period (e.g., equity in business or partnership, stock options, retirement plans/accounts and their underlying holdings as appropriate, deferred compensation, and intellectual property, such as book deals and patents)

This section does not include assets or income from United States Government employment or assets that were acquired separately from the filer’s spouse’s business, employment, or other income-generating activities (e.g., assets purchased through a brokerage account). Note: The type of income is not required if the amount of income is $0 - $200 or if the asset qualifies as an excepted investment fund (EIF). Amounts of income are not required for a spouse’s earned income (excluding honoraria).

6. Other Assets and Income

Part 6 discloses each asset, not already reported, that (1) ended the reporting period with a value greater than $1,000 or (2) produced more than $200 in investment income during the reporting period. For purposes of the value and income thresholds, the filer aggregates the filer’s interests with those of the filer’s spouse and dependent children.

This section does not include the following types of assets: (1) a personal residence (unless it was rented out during the reporting period); (2) income or retirement benefits associated with United States Government employment (e.g., Thrift Savings Plan); and (3) cash accounts (e.g., checking, savings, money market accounts) at a single financial institution with a value of $5,000 or less (unless more than $200 of income was produced). Additional exceptions apply. Note: The type of income is not required if the amount of income is $0 - $200 or if the asset qualifies as an excepted investment fund (EIF).

7. Transactions
Part 7 discloses purchases, sales, or exchanges of real property or securities in excess of $1,000 made on behalf of the filer, the filer’s spouse or dependent child during reporting period.

This section does not include transactions that concern the following: (1) a personal residence, unless rented out; (2) cash accounts (e.g., checking, savings, CDs, money market accounts) and money market mutual funds; (3) Treasury bills, bonds, and notes; and (4) holdings within a federal Thrift Savings Plan account. Additional exceptions apply.

8. Liabilities

Part 8 discloses liabilities over $10,000 that the filer, the filer’s spouse or dependent child owed at any time during the reporting period.

This section does not include the following types of liabilities: (1) mortgages on a personal residence, unless rented out (limitations apply for PAS filers); (2) loans secured by a personal motor vehicle, household furniture, or appliances, unless the loan exceeds the item’s purchase price; and (3) revolving charge accounts, such as credit card balances, if the outstanding liability did not exceed $10,000 at the end of the reporting period. Additional exceptions apply.

9. Gifts and Travel Reimbursements

This section discloses:

- Gifts totaling more than $390 that the filer, the filer’s spouse, and dependent children received from any one source during the reporting period.
- Travel reimbursements totaling more than $390 that the filer, the filer’s spouse, and dependent children received from any one source during the reporting period.

For purposes of this section, the filer need not aggregate any gift or travel reimbursement with a value of $156 or less. Regardless of the value, this section does not include the following items: (1) anything received from relatives; (2) anything received from the United States Government or from the District of Columbia, state, or local governments; (3) bequests and other forms of inheritance; (4) gifts and travel reimbursements given to the filer’s agency in connection with the filer’s official travel; (5) gifts of hospitality (food, lodging, entertainment) at the donor’s residence or personal premises; and (6) anything received by the filer’s spouse or dependent children totally independent of their relationship to the filer. Additional exceptions apply.
Privacy Act Statement

Title I of the Ethics in Government Act of 1978, as amended (the Act), 5 U.S.C. app. § 101 et seq., as amended by the Stop Trading on Congressional Knowledge Act of 2012 (Pub. L. 112-105) (STOCK Act), and 5 C.F.R. Part 2634 of the U. S. Office of Government Ethics regulations require the reporting of this information. The primary use of the information on this report is for review by Government officials to determine compliance with applicable Federal laws and regulations. This report may also be disclosed upon request to any requesting person in accordance with sections 105 and 402(b)(1) of the Act or as otherwise authorized by law. You may inspect applications for public access of your own form upon request. Additional disclosures of the information on this report may be made: (1) to any requesting person, subject to the limitation contained in section 208(d)(1) of title 18, any determination granting an exemption pursuant to sections 208(b)(1) and 208(b)(3) of title 18; (2) to a Federal, State, or local law enforcement agency if the disclosing agency becomes aware of violations or potential violations of law or regulation; (3) to another Federal agency, court or party in a court or Federal administrative proceeding when the Government is a party or in order to comply with a judge-issued subpoena; (4) to a source when necessary to obtain information relevant to a conflict of interest investigation or determination; (5) to the National Archives and Records Administration or the General Services Administration in records management inspections; (6) to the Office of Management and Budget during legislative coordination on private relief legislation; (7) to the Department of Justice or in certain legal proceedings when the disclosing agency, an employee of the disclosing agency, or the United States is a party to litigation or has an interest in the litigation and the use of such records is deemed relevant and necessary to the litigation; (8) to reviewing officials in a new office, department or agency when an employee transfers or is detailed from one covered position to another; (9) to a Member of Congress or a congressional office in response to a request made on behalf of an individual who is the subject of the record; (10) to contractors and other non-Government employees working on a contract, service or assignment for the Federal Government when necessary to accomplish a function related to an OGE Government-wide system of records; and (11) on the OGE Website and to any person, department or agency, any written ethics agreement filed with OGE by an individual nominated by the President to a position requiring Senate confirmation. See also the OGE/GOVT-1 executive branch-wide Privacy Act system of records.

Public Burden Information

This collection of information is estimated to take an average of three hours per response, including time for reviewing the instructions, gathering the data needed, and completing the form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Program Counsel, U.S. Office of Government Ethics (OGE), Suite 500, 1201 New York Avenue, NW., Washington, DC 20005-3917.

Pursuant to the Paperwork Reduction Act, as amended, an agency may not conduct or sponsor, and no person is required to respond to, a collection of information unless it displays a currently valid OMB control number (that number, 3209-0001, is displayed here and at the top of the first page of this OGE Form 278e).
Exhibit C
Letter from Bernard L. McNamee to DAEO Charles A. Beamon
(Oct. 5, 2018)
Charles A. Beamon  
Designated Agency Ethics Official  
Federal Energy Regulatory Commission  
888 First St., NE  
Washington, D.C. 20426

Dear Mr. Beamon:

The purpose of this letter is to describe the steps that I will take to avoid any actual or apparent conflict of interest in the event that I am confirmed for the position of Commissioner, Federal Energy Regulatory Commission.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter in which I know that I have a financial interest directly and predictably affected by the matter, or in which I know that a person whose interests are imputed to me has a financial interest directly and predictably affected by the matter, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2). I understand that the interests of the following persons are imputed to me: any spouse or minor child of mine; any general partner of a partnership in which I am a limited or general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

I recently resigned from my position with the Texas Public Policy Foundation. For a period of one year after my resignation, I will not participate personally and substantially in any particular matter involving specific parties in which I know the Texas Public Policy Foundation is a party or represents a party, unless I am first authorized to participate, pursuant to 5 C.F.R. § 2635.502(d).

I will retain my position as a trustee of the BSM Family Trust. I will not receive any fees for the services that I provide as a trustee during my appointment to the position of Commissioner, Federal Energy Regulatory Commission. I will not participate personally and substantially in any particular matter that to my knowledge has a direct and predictable effect on the financial interests of the BSM Family Trust or its underlying assets, unless I first obtain a written waiver, pursuant to 18 U.S.C. § 208(b)(1), or qualify for a regulatory exemption, pursuant to 18 U.S.C. § 208(b)(2).
If I have a managed account or otherwise use the services of an investment professional during my appointment, I will ensure that the account manager or investment professional obtains my prior approval on a case-by-case basis for the purchase of any assets other than cash, cash equivalents, investment funds that qualify for the exemption at 5 C.F.R. § 2640.201(a), or obligations of the United States.

I understand that as an appointee I will be required to sign the Ethics Pledge (Exec. Order No. 13770) and that I will be bound by the requirements and restrictions therein in addition to the commitments I have made in this ethics agreement. I also understand that I am subject to the standards of ethical conduct for employees of the Executive Branch.

I will meet in person with you during the first week of my service in the position of Commissioner in order to complete the initial ethics briefing required under 5 C.F.R. § 2638.305. Within 90 days of my confirmation, I will document my compliance with this ethics agreement by notifying you in writing when I have completed the steps described in this ethics agreement.

Finally, I have been advised that this ethics agreement will be posted publicly, consistent with 5 U.S.C. § 552, on the website of the U.S. Office of Government Ethics along with ethics agreements of other Presidential nominees who file public financial disclosure reports.

Sincerely,

[Signature]

Bernard L. McNamee

10-5-18