



AGENDA DOCUMENT NO. 16-20-A

MINUTES OF AN OPEN MEETING
OF THE
FEDERAL ELECTION COMMISSION
THURSDAY, APRIL 14, 2016

PRESENT: Matthew S. Petersen, Chairman, presiding
Steven T. Walther, Vice Chairman
Lee E. Goodman, Commissioner
Caroline C. Hunter, Commissioner
Ann M. Ravel, Commissioner
Ellen L. Weintraub, Commissioner
Alec Palmer, Staff Director
Daniel Petalas, Acting General Counsel
Shawn Woodhead Werth, Secretary and Clerk

Chairman Matthew S. Petersen called the Federal Election Commission to order in an open meeting at 10:13 A.M. on Thursday, April 14, 2016 with a quorum present.

Chairman Petersen recognized Vice Chairman Walther who

MOVED to suspend the rules on the timely submission of agenda documents in order to consider the following late submitted documents: Agenda Document No. 16-16-A, Draft A of Advisory Opinion 2016-01, Ethiq, Inc., and Agenda Document No. 16-17-A, Draft A of Advisory Opinion 2016-02, Enable Midstream Services, LLC.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

I. CORRECTION AND APPROVAL OF MINUTES

Minutes for February 11, 2016
Agenda Document No. 16-08-A

Minutes for February 25, 2016
Agenda Document No. 16-09-A

Chairman Petersen recognized Vice Chairman Walther who

MOVED to approve Agenda Document No. 16-08-A and Agenda Document No. 16-09-A.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

II. DRAFT ADVISORY OPINION 2016-01

Ethiq, Inc. by Bradley W. Hertz, Esq.

Agenda Document No. 16-16-A (Draft A)
(Submitted Late)

Chairman Petersen recognized Mr. Hertz, requestor's counsel, who was available to answer Commissioners' questions.

Chairman Petersen recognized Commissioner Ravel who welcomed Mr. Nick Sanders, who was her first law student intern when she joined the Commission and is before the Commission today serving as counsel to the requestor.

Chairman Petersen recognized Ms. Joanna Waldstreicher of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and the Commission regulations to the request. Ethiq, Inc. ("Ethiq") is a for-profit corporation that is not owned or controlled by any candidate, political party, or political committee. It plans to produce and distribute political news and commentary to users of its website and mobile application. Ethiq will use a proprietary algorithm to tailor the content it distributes to each user based on information the user has provided about his or her preferences and opinions. Ethiq asks whether its planned production and distribution of news content qualify for the media exemptions from the definitions of "contribution" and "expenditure."

Mr. Hertz, Mr. Sanders, and Mr. Darren Bates, the requestor's representative, participated in the discussion that followed.

Chairman Petersen recognized Commissioner Weintraub who

MOVED to approve Agenda Document No. 16-16-A, an
Advisory Opinion in response to the request from Ethiq.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

III. DRAFT ADVISORY OPINION 2016-02

Enable Midstream Services, LLC
by Meredith K. Leshner, Esq.

Agenda Document No. 16-17-A (Draft A)
(Submitted Late)

Chairman Petersen recognized Ms. Leshner, requestor's counsel, and Mr. Brian Alford, requestor's representative, who were available to answer Commissioners' questions.

Chairman Petersen recognized Mr. Anthony Buckley of the General Counsel's Office who presented the draft advisory opinion concerning the application of the Federal Election Campaign Act of 1971, as amended, and the Commission regulations to the request from Enable Midstream Services, LLC ("Enable"). Enable asks whether the separate segregated fund ("SSF") it intends to establish would be affiliated with the SSFs of CenterPoint Energy Inc. or OGE Energy Corporation or both. Enable was created as a wholly owned subsidiary of Enable

Midstream Partners LP which itself was created through a joint venture involving CenterPoint Energy, OGE Energy, and others. Mr. Buckley explained that the Commission considers a number of factors in evaluating the overall relationship between entities to determine whether they are properly considered affiliated. The Draft notes that of all the factors used to determine whether entities are affiliated, only one – participation in the governance of Enable – weighs in favor of its affiliation with CenterPoint Energy. Because this factor does not weigh heavily, however, the Draft concludes that Enable's SSF would not be affiliated with CenterPoint Energy's SSF. The Draft does note that three factors weigh in favor of Enable's affiliation with OGE Energy, including the fact that they have 175 common employees and 1 common officer. This factor weighs heavily in favor of finding affiliation and the three factors taken together indicate that Enable is both financed and maintained by OGE Energy on an on-going basis. Accordingly, the Draft concludes that Enable's SSF would be affiliated with OGE Energy's SSF.

Ms. Leshner, Mr. Alford, and Mr. Adav Noti of the General Counsel's Office participated in the discussion that followed. In response to Chairman Petersen's request, Mr. Alford stated that the requestor would provide additional information and was amenable to an extension of time in order for the Commission to resume consideration of this matter at its April 28, 2016 meeting.

IV. DRAFT FINAL RULE AND EXPLANATION AND JUSTIFICATION
FOR TECHNICAL AMENDMENTS TO 2015 CFR

Agenda Document No. 16-12-A (Draft A)

Agenda Document No. 16-12-B (Draft B)

Chairman Petersen recognized Mr. Eugene Lynch of the General Counsel's Office who presented the Draft Final Rule which contains proposed technical and confirming changes to the Commission's regulations. He summarized the distinctions between the Drafts.

Mr. Noti of the General Counsel's Office participated in the discussion that followed.

The meeting recessed at 11:06 A.M. and reconvened at 11:18 A.M. with a quorum present.

IV. DRAFT FINAL RULE AND EXPLANATION AND JUSTIFICATION
FOR TECHNICAL AMENDMENTS TO 2015 CFR (continued)

Discussion continued.

Chairman Petersen stated that this matter would be held over to the April 28, 2016 meeting.

V. PROPOSED MODIFICATIONS TO PROGRAM FOR REQUESTING
CONSIDERATION OF LEGAL QUESTIONS BY THE COMMISSION –
LRA 941

Agenda Document No. 16-11-A

Chairman Petersen recognized Ms. Margaret Forman of the General Counsel's Office who presented the joint memorandum from the Offices of Compliance and General Counsel concerning the two proposed modifications to the program: 1) clarify that a request for legal consideration must be submitted to the Commission Secretary; and 2) include a brief, informal resolution process which in certain cases could promote an efficient and fair resolution without the need for formal resolution.

Mr. Noti of the General Counsel's Office also participated in the discussion that followed.

Chairman Petersen recognized Vice Chairman Walther who

MOVED to approve Agenda Document No. 16-11-A, Proposed Modifications to Program for Requesting Consideration of Legal Questions by the Commission.

The motion carried by a vote of 6-0 with Commissioners Goodman, Hunter, Petersen, Ravel, Walther, and Weintraub voting affirmatively for the decision.

VI. PROPOSED STATEMENT OF POLICY REGARDING THE PUBLIC
DISCLOSURE OF CLOSED ENFORCEMENT FILES

Memorandum from Commissioner Lee E. Goodman
dated March 24, 2016

Agenda Document No. 16-13-A

Chairman Petersen stated that this matter would be held over to the April 28, 2016 meeting.

VII. RULEMAKING PROPOSALS

MOTION TO OPEN A RULEMAKING TO ASSIST THOSE ACCEPTING
CORPORATE CONTRIBUTIONS OR MAKING CORPORATE EXPENDITURES
IN COMPLYING WITH EXISTING CAMPAIGN FINANCE LAW

Memorandum from Commissioner Ellen L. Weintraub
dated March 24, 2016

Agenda Document No. 16-14-A

MOTION REGARDING FOREIGN NATIONAL RULEMAKING

Memorandum from Vice Chairman Steven T. Walther
dated March 29, 2016

Agenda Document No. 16-15-A

Chairman Petersen recognized Commissioner Weintraub who explained that she had asked the Chairman about the feasibility of inviting legal scholars to attend today's meeting to discuss the issues of corporate money and foreign influence. Chairman Petersen's counteroffer, which she accepted, is to convene a forum and bring together legal scholars and academics to discuss these topics. She noted that these subjects are of significant concern, particularly in the aftermath of *Citizens United*, and she is concerned the Commission has failed to address the intervention of foreign national money coming in through corporate venues. She stated that the forum, which is tentatively scheduled for June 23,

2016, will enable the Commission to move forward with a Notice of Proposed Rulemaking to solicit public comments.

Chairman Petersen recognized Vice Chairman Walther who said that the forum is a great idea and expects that consideration will be given also to the proposal that came before the Commission on January 20, 2011 but was not approved. Vice Chairman Walther hopes that it will be back before the public for discussion and the Commission can make progress on it.

Discussion continued.

Chairman Petersen stated that these involve very complex and interesting subject matters and the Commission will benefit by educating itself to a greater degree.

VIII. MANAGEMENT AND ADMINISTRATIVE MATTERS

There being no further business to come before the Commission,
the meeting adjourned at 11:40 A.M.

Signed:

Matthew S. Petersen
Chairman of the Commission

Attest:

Shawn Woodhead Werth
Secretary and Clerk of the Commission