



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

IN THE MATTER OF THE ADOPTION OF THE BOARD)
OF PUBLIC UTILITIES' SUPPLEMENTAL ETHICS)
CODE PURSUANT TO N.J.S.A. 52:13D-23(a)(1))
)
ORDER
DOCKET NO. AX15060734

BY THE BOARD:

Pursuant to N.J.S.A. 52:13D-23(a)(1), every State agency is required to adopt a supplemental code of ethics to address agency specific concerns and requirements. To date, the Board of Public Utilities ("BPU" or "Board") has not formally adopted a supplemental ethics code. Accordingly, the attached New Jersey Board of Public Utilities Supplemental Code of Ethics ("Supplemental Code") has been drafted, approved by the State Ethics Commission ("SEC"), and is recommended for adoption by the BPU.

BACKGROUND

Pursuant to N.J.S.A. 52:13D-23(a)(2), the SEC promulgated and adopted the Uniform Ethics Code "to govern and guide the conduct of State officers and employees and special State officers and employees in State agencies in the Executive Branch." N.J.S.A. 52:13D-23(a)(2). The Uniform Ethics Code is therefore the primary code of ethics for the BPU, a State agency in the Executive Branch. Ibid.

As stated above, N.J.S.A. 52:13D-23(a)(1) requires the BPU, as a State agency, to adopt its own code of ethics to supplement the Uniform Ethics Code. N.J.S.A. 52:13D-23(a)(1). The statute requires that an agency's supplemental ethics code "be formulated with respect to the particular needs and problems of the agency to which said code is to apply." Ibid. An agency's supplemental code of ethics shall be a supplement to the Uniform Ethics Code and shall recognize the Uniform Ethics Code as the primary code. N.J.A.C. 19:61-2.2(b).

The BPU has not previously taken Board action to adopt a supplemental ethics code. In 2015, the SEC directed the BPU to prepare a supplemental ethics code and to submit the proposed supplemental ethics code for approval to the SEC. The BPU did so, and the attached Supplemental Code was approved by the SEC on June 16, 2015.

DISCUSSION

If the proposed Supplemental Code is adopted by the Board, it will bind all BPU Commissioners and employees, as stated therein.

Pursuant to the SEC's rules, specifically, N.J.A.C. 19:61-2.2(b)(3), "[e]ach State agency shall put into place a distribution procedure to ensure that each current State official and each new State official receives a copy of the approved agency supplemental code of ethics." N.J.A.C. 19:61-2.2(b)(3). The SEC's rules also require that each recipient of the supplemental code sign a receipt indicating the date that he or she received the code, and an acknowledgement that he or she is responsible for reading the supplemental code and is bound by it. Ibid. This receipt is required to be maintained in the employee's personnel file. Ibid.

If the proposed Supplemental Code is approved, the SEC, as the designated ethics agency for the Executive branch of government in New Jersey, will have the authority to enforce the provisions within. N.J.S.A. 52:13D-21(h).

FINDINGS AND CONCLUSIONS

The Board **FINDS** that adoption of a supplemental ethics code is required by New Jersey law.

Upon review of the attached proposed Supplemental Code, the Board **FINDS** that it is appropriate and necessary in providing employees with the proper guidance to avoid ethics violations that could negatively impact both employees and the work of the BPU.

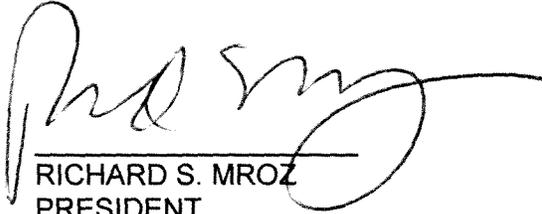
Accordingly, the Board **HEREBY ADOPTS** the attached proposed Supplemental Code.

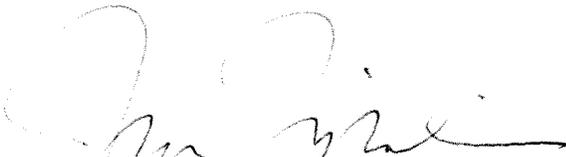
The Board **DIRECTS** BPU staff, subject to oversight of the Office of Chief Counsel, to implement a distribution procedure for the Supplemental Code, and to ensure that appropriate receipts are signed and maintained in personnel files, in compliance with the SEC Rule cited above, and to post the Supplemental Code on the Board's intranet website.

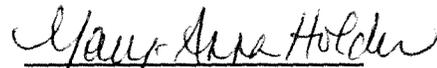
This Order shall be effective on August 1, 2015.

DATED: July 23, 2015

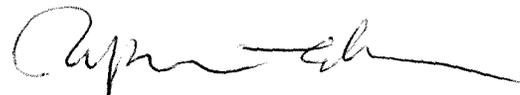
BOARD OF PUBLIC UTILITIES
BY:

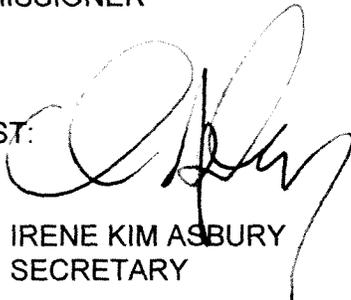

RICHARD S. MROZ
PRESIDENT

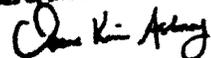

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER


UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities


Adopted by the Board on _____
Approved by the SEC on _____

**New Jersey Board of Public Utilities
Supplemental Code of Ethics**

Pursuant to N.J.S.A. 52:13D-23, the State Ethics Commission adopted the **Uniform Ethics Code** with appendices, effective September 11, 2006, to govern and guide the conduct of State officers and employees and special State officers and employees employed by State agencies in the Executive Branch of State Government.

The **Uniform Ethics Code** is the primary code of ethics for the New Jersey Board of Public Utilities (Board). The Uniform Ethics Code is supplemented by the Board Supplemental Code which is formulated with respect to the particular needs and issues presented to the Board. The Board is mandated to review its enabling legislation to ensure that any Board-specific conflicts provisions are included in the Board Supplemental Code.

The Board Supplemental Code was approved by the State Ethics Commission on _____ and adopted by the Board of Public Utilities on _____.

EXHIBIT "A"

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I. INTRODUCTION

1. Authority

In accordance with *N.J.S.A. 52:13D-23 et seq.*, the New Jersey Board of Public Utilities (Board) hereby promulgates a Supplemental Code of Ethics (Board Supplemental Code) to govern and guide the conduct of Board Commissioners and employees. Commissioners and employees must comply with the provisions of both the Uniform Ethics Code (UEC) and the Board Supplemental Code. If there is a conflict between the provisions of the Board Supplemental Code and the provisions of the Uniform Ethics Code, then the provisions of the Uniform Ethics Code govern resolution of the conflict.

2. Purpose

Employment within the Board involves public trust and responsibility. For the purposes of maintaining public confidence in the Board, effectively regulating public utilities conducting business within the State, and promoting appropriate relations between and among the Board and its staff and other interested parties, Commissioners and employees of the Board must avoid conduct that is in violation of the public trust or which creates a justifiable impression to the public that such trust is being compromised. *N.J.S.A. 52:13D-23(e)*.

The Board Supplemental Code, read in conjunction with the Uniform Ethics Code, sets forth ethical requirements and prohibitions which are applicable to Commissioners and all employees of the Board.

3. Application

The Board Supplemental Code applies to all commissioners and employees, whether in "classified" or "unclassified" titles, including Senior Executive Service, and whether their employment has been deemed to be "temporary" or "permanent," "full-time" or "part-time."

Adherence to the provisions of the Board Supplemental Code is a condition of employment for Commissioners and employees of the Board.

If a particular provision of the Board Supplemental Code is found to be unconstitutional or otherwise invalid, the remainder of the code shall continue in full force and effect.

The Board Supplemental Code supersedes all previous Codes of Ethics adopted by the Board.

4. Questions and Interpretation Assistance

Questions concerning the provisions of the Board Supplemental Code should be discussed with the Board's Ethics Liaison Officer and/or the State Ethics Commission. Informal guidance may be requested from the State Ethics Commission staff. A formal opinion may be requested from the State Ethics Commission concerning an ethics matter, a denial of the Outside Activity Questionnaire on an ethics basis, or a question of interpretation of a provision of the Uniform Ethics Code, the Conflicts of Interest Law, SEC regulations or decisions of the Commission. Opinion(s) concerning such matters may be requested from the State Ethics Commission or SEC staff. The Board's Ethics Liaison Officer is available to assist in the preparation of such requests.

5. Notice of Additional Ethical Standards

The New Jersey Conflicts of Interest Law, *N.J.S.A. 52:13D-12 et seq.*, contains specific provisions governing the ethical conduct of State employees and sets forth penalties which may be imposed if the provisions of the statute, SEC regulations, the provisions of the Uniform Ethics Code, or the provisions of the Board Supplemental Code are violated. Commissioners and employees are subject to said provisions governing ethical conduct and provisions which impose penalties and therefore they should familiarize themselves with the New Jersey Conflicts of Interest Law, *supra*, and the Uniform Ethics Code and the SEC regulations set forth in *N.J.A.C. 19:61-1.1 et seq.* The Plain Language Guide to New Jersey's Executive Branch Ethics Standards is also available to guide you.

The Uniform Ethics Code, the Conflicts of Interest Law, SEC regulations and the Plain Language Guide can be accessed on the State Ethics Commission website, <http://www.state.nj.us/ethics>.

II. PROHIBITED INVESTMENT(S), FINANCIAL INTEREST(S) AND/OR OWNERSHIP

1. Commissioners, employees and members of their "immediate family," as defined in the Uniform Ethics Code, Article I, are prohibited from holding, investing in or obtaining either directly or indirectly, any equity investment (such as common stock), preferred debt investment (such as preferred stocks or bonds), or acquire stock options, futures, derivatives or similar financial instruments in either any entity subject to the regulation of the Board of Public Utilities, and/or any other entity which has a financial, investment, or ownership interest in any entity that is subject to the regulation of the Board, whether such investments were previously acquired or obtained subsequent to employment with the Board. Commissioners, employees and members of their immediate family are also prohibited from maintaining a financial interest in, or engaging in a business transaction with such an entity if it gives rise to the reasonable

appearance of a conflict. This prohibition does not apply to investments in mutual funds, deferred compensation plans, blind trusts, or similar investments in which the employee does not make or influence the selection of individual investments.

2. Upon discovery that a prohibited interest has been acquired, Commissioners, employees and/or members of their immediate family who acquired prohibited interest(s) shall divest themselves of the prohibited holding within sixty (60) days.

3. The Board has also established a list of Prohibited Financial Interests/Transactions ("Prohibited List") setting forth the names of entities hereinafter referred to as "Prohibited Entities." Commissioners and employees and their "immediate family" are (1) prohibited from having *any* financial interest in Prohibited Entities (including but not limited to security interests and/or a debtor/creditor relationship); and (2) prohibited from engaging in *any* business transaction with Prohibited Entities. As used in the UEC and Board Supplemental Code, "immediate family" means "a spouse, child, parent, or sibling residing in the same household."

4. A copy of the Prohibited List shall be delivered to all Commissioners and employees on the date of their commencement of employment at the Board. Within 14 days thereafter, Commissioners and employees shall disclose to the Board Ethics Liaison Officer whether or not they or their immediate family, as defined in the Uniform Ethics Code, have a financial interest and/or is involved or has been involved in a transaction, with any Prohibited Entity. All Commissioners and employees and their immediate family who have a financial interest and/or engaged in a transaction with a Prohibited Entity shall divest themselves from such financial interest and/or transaction within 60 days of commencement of employment at the Board. Written evidence of the divestiture shall be delivered to the Ethics Liaison Officer.

5. Revisions to the Prohibited List shall be posted to the BPU Intranet for review by all Commissioners and employees. If they and/or their immediate family have a financial interest and/or a transaction with any Prohibited Entity on the revised Prohibited List or any other entity which may give rise to the appearance of a conflict of interest, such interest and/or transaction shall be disclosed to the Ethics Liaison Officer within 14 days of discovery. If divestiture is deemed necessary, divestiture of such interest and/or transaction shall be completed within sixty (60) days of that determination. Written evidence of divestiture shall be delivered to the Ethics Liaison Officer.

III. RECUSAL & RECUSAL PROCEDURE(S)

1. A Commissioner or employee who becomes aware that a "relative," as defined in Article I of the UEC, is employed by or engaged in any business with an "interested

party,” as defined in Article I of the UEC, shall promptly give notice to the BPU Ethics Liaison Officer. The Commissioner or employee shall recuse from existing matters and potential future official matters before the Board brought by or which involve the interested party. Consideration shall also be given to whether recusal is necessary from all matters pertaining to the industry in which a relative is employed.

2. Commissioners and employees shall be guided by the rules governing recusal and recusal procedures set forth in Article IX of the UEC and Appendix I, *N.J.A.C. 19:61-7.1 et seq.*

3. Pursuant to *N.J.A.C. 19:61-7.5(c)(2)*, at a Board meeting, whether public or private, a Commissioner who intends to recuse from an official matter must place the recusal and the reason for the recusal on the record prior to any discussion of the matter.

4. Pursuant to *N.J.A.C. 19:61-7.5(c)(3)*, a Commissioner who recuses from an official matter must leave the room during the non-public portion of a meeting if that matter is discussed in the non-public portion of the meeting.

5. Recusal is not required where Commissioners, employees and/or relatives engage in business activity with a public utility, other entity regulated by the Board, or “interested party” within the meaning of Article I of the UEC, when such activity is required in the ordinary course of arranging for receiving or discontinuing the delivery of essential services (electric, gas, water, sewer, telephone and cable services) to their person or property on the same terms and conditions as are available to the general public.

IV. REQUESTS FOR APPROVAL FOR ATTENDANCE AT EVENTS

1. Attendance at events is governed by the UEC, *N.J.S.A. 52:13D-24* and *N.J.A.C. 19:61-6.1 et seq.*

2. A Request for Approval for Attendance at Events (RAAE) form shall be submitted by a Commissioner or an employee who requests to attend an “event” outside of the office. A Commissioner or an employee attending an event shall provide information concerning reasons for attending and other matters related to attendance. A Division Director, senior staff member, or designee shall enter any additional information on the RAAE form concerning speakers, panel participants, resource persons and other pertinent information.

3. RAAE forms shall be reviewed and approved or disapproved by a supervisor and the Ethics Liaison Officer and returned to the Commissioner or employee who

prepared the form. Copies of RAAE forms shall be forwarded by the ELO to the SEC and copies retained as provided in *N.J.A.C. 19:61-6.1 et seq.*

V. POST-EMPLOYMENT RESTRICTIONS

1. Appearance before the Board as a representative or expert witness shall be guided by *N.J.S.A. 52:13D-17* and Section VIII of the UEC.

2. Former Commissioners and Senior Staff may not represent, appear for or negotiate on behalf of, or agree to do so, any person or party before the Board, in a representative capacity or as an expert witness on behalf of parties other than the Board in any matter, during the one (1) year period immediately following resignation or termination of employment with the Board. "Senior Staff" is defined as the Chief of Staff, Executive Director, Board Secretary and Chief Counsel.

3. Even after the expiration of the aforesaid one (1) year period, Commissioners and Senior Staff, as defined above, may not represent, appear for or negotiate on behalf of, or agree to do so, any person or party before the Board in any matter in which the Commissioner or Senior Staff had direct and substantial involvement when employed by the BPU.

4. After the expiration of the aforesaid one (1) year period, former Commissioners and Senior Staff may represent, appear for or negotiate on behalf of, or agree to do so, any person or party before the Board in any matter in which they did not have direct and substantial involvement when employed by the BPU.

5. Former employees may not represent, appear for or negotiate on behalf of, or agree to do so, any person or party before the Board, in a representative capacity or as an expert witness on behalf of parties other than the Board in any matter, during the six month period immediately following termination of employment with the Board.

6. Even after the expiration of the aforesaid six month period, employees may not represent, appear for or negotiate on behalf of, or agree to do so, any person or party before the Board in any matter in which the employee had direct and substantial involvement when employed by the BPU.

7. After the expiration of the aforesaid six month period, former employees may represent, appear for or negotiate on behalf of, or agree to do so, any person or party before the Board in any matter in which they did not have direct and substantial involvement when employed by the BPU.

VI. SECONDARY EMPLOYMENT

1. Commissioners of the Board shall devote their entire time to the duties of the Board and shall not engage in any other occupation, profession or other gainful employment. *N.J.S.A. 48:2-1b.*

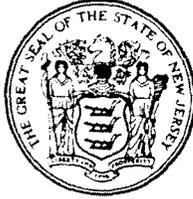
2. Commissioners and employees may serve in uncompensated or voluntary activities outside the Board such as an officer or board member of a professional, charitable, educational, trade and/or non-profit organization provided the service does not create a conflict of interest or the appearance of a conflict and further provided, that prior to engaging in such outside activity the Ethics Liaison Officer has approved the terms and conditions for engaging in such service.

3. Commissioners and employees shall submit to the Ethics Liaison Officer an Outside Activity Questionnaire form identifying all paid and/or unpaid outside activities or businesses in which they are engaged and/or if they hold an officer position in any professional, charitable, educational, trade, or other non-profit organization with or without compensation. If a change in outside activities is expected at any time, it is the obligation of the Commissioner or employee to update his/her Outside Activity Questionnaire and obtain prior approval before engaging in the outside activity. Part-time employment in retail merchandising, food sales or day care facility operations is exempted from this reporting requirement.

VII. SUPERVISORY CONFLICTS OF INTEREST (ANTI-NEPOTISM)

Board Commissioners and employees who exercise supervisory authority or authority with regard to personnel actions over other Board employees are required to disclose if they supervise or exercise personnel authority over a relative, cohabitant or someone they are dating. All such employees must complete the State Ethics Commission Supervisory Conflicts of Interest Certification upon assuming a position with supervisory or personnel authority and must update this certification immediately in the event a relative, cohabitant or someone they are dating is assigned within their scope of authority. Questions on supervisory conflicts should be referred to the Ethics Liaison Officer.

"Relative" means an individual's spouse, domestic partner or civil union partner or his/her spouse/partner's parent, child, sibling, aunt, uncle, niece, nephew, grandparent, grandchild, son-in-law, daughter-in-law, stepparent, stepchild, stepbrother, stepsister, half-brother or half-sister, whether the relative is related to the individual or the individual's spouse/partner by blood, marriage or adoption.



State of New Jersey
STATE ETHICS COMMISSION

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June 19, 2015

Cynthia Covie, Chief Counsel
Board of Public Utilities
44 S. Clinton Avenue
PO Box 350, 9th Floor
Trenton, NJ 08625

Re: Supplemental Code of Ethics
Board of Public Utilities

Dear Ms. Covie:

At its June 16, 2015 meeting, the State Ethics Commission approved the enclosed supplemental code of ethics for the Board of Public Utilities.

The Commission's website contains the approved supplemental code of ethics for state agencies. Please provide a final version of your supplemental code, which will be added to our website, once it is approved by the Board.

Very truly yours,

STATE ETHICS COMMISSION

A handwritten signature in black ink, appearing to read "Susana E. Guerrero", written over a horizontal line.

For the Commission
Susana E. Guerrero
Executive Director

EXHIBIT "B"

SEG/sc
Exit_BPU_Supplemental Code_2015