In the Matter Of:

In Re: Public Service Commission Screenings

2019 Public Service Commission Screening Hearing January 14, 2019



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1	STATE REG	ULATION OF PUBLIC UT	ILITIES
2		REVIEW COMMITTEE	
3			
4	2019 Publ	ic Service Commissio	n Screening
5		Seat 2	
6			
7	DATE:	January 14, 2019	
8	TIME:	10:00 AM	
9	LOCATION:	Senate of South Car	olina
10		1101 Pendleton Stre Gressette Building	
11		Columbia, SC	
12	REPORTED BY:	AMY R. COPE,	
13	KEI OKIED DI	Court Reporter	
14			
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     APPEARANCES:
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           Thomas C. Alexander, Chairman
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     Rep. William E. Sandifer, III, Vice Chairman
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     Dan Jones, Esquire
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     Rep. P. Michael Forrester
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     Sen. C. Bradley Hutto
 7
     Rep. David J. Mack, III
 8
     Sen. Luke A. Rankin, Sr.
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     John S. Simmons, Esquire
10
     Heather Anderson, Committee Counsel
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     Steve Davidson, Committee Counsel
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1	SENATOR ALEXANDER: Good morning. I'll
2	call this meeting of the state regulation Public
3	Utilities Review Committee meeting to order on this
4	Monday, January 14th, 2019, the purpose of
5	screening for Public Service Commission seat number
6	2.
7	So we have members in quorum, more than
8	a quorum present. As we've done in the past, I
9	would entertain a motion to go into executive
10	session to discuss potential employment pursuant to
11	Section 30-4-70(a)(1).
12	REPRESENTATIVE FORRESTER: So moved.
13	SENATOR ALEXANDER: I have a motion, is
14	there a second?
15	REPRESENTATIVE MACK: Second.
16	SENATOR ALEXANDER: I have a second,
17	numerous seconds. I'll carry that, if there's no
18	discussion on the vote on the motion, I'll carry it
19	to a vote. All in favor, please say aye?
20	(Unanimous aye vote)
21	SENATOR ALEXANDER: Any opposed?
22	Hearing none, it's unanimous. We'll go into
23	executive session. Thank you.
24	(Executive Session).
25	SENATOR ALEXANDER: We've lifted the

veil. Certainly there was no action taken in the executive session. So we will continue with this meeting of the Public Service Commission screening of the hearing. I have some brief remarks that I'd like to make.

This is the public hearing for the screening of candidates for the Public Service Commission, seat 2. There are five candidates to be screened. One of the duties of the Review Committee is to screen candidates to determine whether they meet statutory qualifications. A baccalaureate or more advanced degree. Two, a background of substantial duration and expertise in at least one of the following areas: energy, telecommunications, consumer protection and advocacy, water and wastewater, finance, economics and statistics, accounting, engineering, or law.

The Review Committee is also required to consider, one, the ability, dedication, compassion, common sense and integrity of the candidates. And two, the race and gender of the candidates and other demographic factors to ensure nondiscrimination to the greatest extent possible of all segments of the population of the state.

The application process began on

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June 13th, 2018, with applications due on

2 | August 1st. A total of six candidates submitted an

3 | application. One candidate withdrew from

4 | consideration prior to the screening.

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5 We have conducted background

6 investigations of each candidate, including credit,

7 | law enforcement, and driver's license checks. In

8 | accordance with the previous screenings by the

9 Review Committee, the candidates took a written

10 examination to assist us in determining the level

11 of knowledge that each candidate has with respect

12 | to substantive public utility issues, ethical

constraints applicable to the Commission and other

14 operations of the Commission.

We're here today to further question the candidates and to give them an opportunity to

make any statement with respect to their

18 qualifications and desire to serve as a

commissioner. Candidates may not seek pledges

20 until 48 hours after the Review Committee has

21 | issued its official report. Candidates will be

notified of the time that the report is officially

issued and when they may begin seeking and

24 receiving pledges.

Further, the Review Committee requests the

substantive information during the screening not be shared until after the final candidate has been screened. The candidates will be in a separate room prior to their screening in order to ensure fairness during the process. However, the purpose of not having the candidates in the room prior to his or her screening is defeated if the candidates are contacted or read about what questions are being asked or read about earlier candidates' screenings online.

A transcript of these screenings will be posted online. We've requested that the transcripts be provided as soon as possible. The Review Committee will need to meet in executive session with each candidate following their public screening following potential employment pursuant to Section 2-20-20 and Section 30-4-70, including discussion of matters of a personal nature where public disclosure would constitute an unreasonable invasion of privacy, which are exempt from the public disclosure, pursuant to Section 30-4-40(a)(2).

So I would entertain a motion that with each candidate, we'll do it in one motion I think that's now been our process in the past, that

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1	during their screening we will go in executive
2	session. So I would entertain
3	REPRESENTATIVE SANDIFER: So moved,
4	Mr. Chairman.
5	SENATOR ALEXANDER: I have a motion.
6	Do I have a second?
7	MR. JONES: Second.
8	SENATOR ALEXANDER: With each candidate
9	we go in to a specific executive session with that
10	candidate. Any discussion of that motion? Hearing
11	none, we'll go to a vote. All in favor of that
12	motion to go into executive session with each
13	candidate as a part of their screening process,
14	please say aye.
15	(Unanimous aye vote).
16	SENATOR ALEXANDER: Any opposition to
17	that? The record will reflect it is unanimous.
18	Thank you. So at this time we will proceed with
19	the screening. And the first individual to be
20	screened this morning is Mr. James Buddy Atkins.
21	Good morning, please come forward.
22	MR. ATKINS: Morning.
23	SENATOR ALEXANDER: If you'll be sworn
24	by the court reporter.
25	JAMES "BUDDY" ATKINS

being first duly sworn, testified as follows: 1 2 MR. ATKINS: I don't know if the speaker is on or not. 3 SENATOR ALEXANDER: It is. 4 ATTORNEY ANDERSON: Good morning, 5 Mr. Atkins. 6 7 MR. ATKINS: Good morning, Mr. Chairman and the Members of the Committee. 8 ATTORNEY ANDERSON: I'll first give a 9 10 very brief description of Mr. Atkins' background. 11 Mr. Atkins received a Bachelor of Science degree 12 from the University of South Carolina with a major 13 in marine science. He received a Master of Science 14 in environmental systems engineer from Clemson 15 University. And a Ph.D. from the University of South Carolina in marine science. 16 Mr. Atkins served as director of the 17 18 Richland County Conservation Department from 2010 19 to 2014. From 2004 to 2010, he was president and 20 owner of Regulatory Heuristics, a consulting firm focused on technical and policy issues in the 21 2.2 energy, water and environmental sectors. From 2006 23 to 2007, he served as program manager of the South 24 Carolina Commission on Higher Education and he 25 served on the Public Service Commission in seat 2

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from 2002 to 2004. From 1996 to 2000, Mr. Atkins was a research associate professor with the Earth Sciences and Resources Institute at the University of South Carolina.

From '85 to '96, he was employed by the Department of Health and Environmental Control, initially as chief for surface water hydrology and then as a senior scientist engineering associate. Both of these positions focused on various water issues. And prior to him being employed with DHEC here, he served as section chief of agriculture nonpoint source pollution section with the North Carolina Division of Soil and Water Conservation. He also served as an extension specialist with the North Carolina State University's biological and agricultural engineering department.

He was a graduate research assistant with the environmental system engineering department at Clemson. And also a hydrologist with the Water Resources Division of U.S. Geological Survey.

Mr. Atkins, do you have any changes that you'd like to make to the Personal Data Questionnaire you submitted with your application,

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1	other than changes that you may have already
2	submitted?
3	MR. ATKINS: No, I do not with
4	exception of some of the issues that we have
5	discussed and I hope to discuss in executive
6	session.
7	ATTORNEY ANDERSON: I would ask that
8	Mr. Atkins's Personal Data Questionnaire be entered
9	into the record with any confidential information
10	being redacted.
11	(ATKINS EXHIBIT 1, South Carolina
12	Public Service Commission edited Personal Data
13	Questionnaire for James Blake Atkins, was marked
14	for identification.)
15	ATTORNEY ANDERSON: And as part of our
16	background investigation of Mr. Atkins, we obtained
17	a credit check, driver's license and SLED check.
18	And any questions of a confidential or personal
19	nature will be taken up in executive session.
20	Before beginning questioning, do you
21	have a brief statement that you'd like to make?
22	MR. ATKINS: I do have a brief
23	statement.
24	ATTORNEY ANDERSON: Please go ahead.
25	MR. ATKINS: Good morning, Mr. Chairman

and Members of the Committee. It is a pleasure and honor to be here today. I look forward to the opportunity to discuss with you my qualifications for this position and my reasons for running again for the Commission. I think we're at a critical juncture here in South Carolina regarding our economic and energy future. And I'm running because I believe I can help re-establish public confidence and trust that has been lost at the Commission.

Based on my 40 years of experience, including my prior service as the 2nd Congressional District commissioner, I believe what the Commission needs most at this time is a technical person, someone who has an engineering and statistical background in the four most important areas before the Commission, water, wastewater, energy, and environmental issues, such as the Chem-Nuclear site. I will bring those technical skills to bear at the Commission and I think I'll be able to add a lot. And I also look forward to representing the broad public interests of the 2nd Congressional District and working with my fellow commissioners, if elected, on some of these important issues.

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1	12 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 I appreciate it. Thank you,
2	Mr. Chairman and Members of the Committee.
3	ATTORNEY ANDERSON: I have a few
4	questions for you now, Mr. Atkins.
5	EXAMINATION
6	BY ATTORNEY ANDERSON:
7	Q. First of all, please state your name
8	and home address for the record.
9	A. My full name is James Blake Atkins. I
10	reside at 2320 Duncan Street, that's in Columbia,
11	29205.
12	Q. Are you registered a voter?
13	A. I am. I am registered to vote in the
14	2nd District.
15	Q. The Secretary of State office's website
16	indicates that you are an agent for Regulatory
17	Heuristics. Can you please give a brief
18	description about this entity and your current
19	role?
20	A. Well, I formed Regulatory Heuristics as
21	a single member LLC when I left the Commission to
22	do energy policy and advocacy work. And I think
23	you can see from my resumé and my application what
24	I did in that job, it was just me. I still have
25	maintained that LLC, although it has been inactive

January 14, 2019 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 Commission?

- Well, study, read, look at past orders. Α. But what I've tried to do over the past number of years, especially even when I had my consulting business, was to keep up with what went on at the Commission. I have tried very diligently to keep track, especially of the nuclear issues because they're so important, and because of my original testimony in that hearing. So I think I'm kind of up-to-speed anyway, but I'll just work hard and look at the orders and try and see what's transpired in the areas that I am not familiar I have not followed every case.
- What role generally does the PSC serve Ο. in regards to regulation of utilities?
 - Well, the main function of the Α. Commission is to -- really to regulate rates, charges, and services of our investor-owned utilities. For example, a rate case, the Commission decides based on all the evidence that's presented what the rate of return ought to be. What the allowable costs are. For water and sewer systems, it's an operating margin.
 - So they also -- one of the most important things that I've always been interested

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 in are the siting hearings, when the Commission has to approve either, for example, a transmission line or a generating facility, such as nuclear plant or a gas-fired plant. So even though the Commission's main focus is economic regulation, I don't think anybody who sits on the Commission can really understand what they're doing unless they go to the technical pieces first.

You know, when we build a bridge or we build a power plant, we do the engineering, we do the analysis, there's environmental pieces that go with that. And then you figure out if it's legal to build it and how you're going to pay for it.

- Q. Do you think that the role of the Public Service Commission should be modified?
- A. That is a difficult, broad question. I would like to see the Commission become more professional. And I would like to see the Commission base its decisions on the evidence in the record and to try and regain public confidence.

I would like to see certain changes at the Commission. One of the things that I think is most important is consistent with Act 175, that the commissioners be a team of commissioners. We don't need all engineers, we don't need all lawyers or

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 accountants or finance people, we really need a mix of folks of backgrounds in water, sewer, energy, engineering, statistics, law and finance. And I think having a good or great team like that facilitates good motions and decisions of the Commission.

One of the things that some of the commissioners expressed during the nuclear hearing was the need that they felt that they really couldn't make a good decision anymore because they couldn't go to a site. They couldn't go to the nuclear plant. Other than myself, I don't think that any of sitting commissioners have ever been to the Chem-Nuclear Waste Disposal site. So I know they were concerned about that and I would hope under the Judicial Cannons that ultimately there would be some way to allow furtherance of that idea.

- Q. And with your previous testimony and involvement in matters before the PSC, would you be able to switch to the role of commissioner and be objective or are there certain biases that you may bring?
- A. No, I think consistent with the

 Judicial Code of Conduct you need to be neutral. I

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 think in running for the Commission and my prior service, I always tried to base my motions and my votes on what was before us. And I tried very hard, some of you who have been around for a while know that I always ask a lot of questions to make sure that we have the information that we needed. So I'm all about good decisions.

It's interesting, my consulting firm is named Regulatory Heuristics. So everybody in the world goes, what in the world is a heuristic? A heuristic is a rule of thumb to find a good solution to a complex problem. So that's what I'm all about, not only to find a decision that's within the four corners of the law, but within that feasible decision space, the things that we can and cannot do. I would always hope -- and what I tried to do previously and I will promise you that I will do again is to try and help us make the best decision out of all those alternatives.

- Q. What are some key factors that a commissioner should consider in a rate case?
- A. Well, some of the -- overall I think it's the commissioner's job to make sure they have all the evidence that they need in the record.

 That it's complete. That it's probative. And that

January 14, 2019

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
the commissioners need to make sure that they fully
understand what's going on and they have the
information they need. I think what we've learned

over the last two years in the nuclear case is that
the commissioners didn't have all the information
that they needed and that led to some of the
problems.

So by that same token though, I think it's imperative that the commissioners know enough and I think have the temperament and the attitude that they're going to try and get that information and not just allow the utility to file an application without fully understanding what's going on.

- Q. Are you familiar with the two advisory opinions issued by the Review Committee dealing with attendance at legislative receptions and at legislative caucus meetings?
- A. I am, I think there's a prohibition on those.
- Q. And have you attended any legislative receptions or any legislative caucus meetings since receiving the advisory opinions?
 - A. I have not.
 - O. Assume that you are serving on the

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- EXAMINATION OF JAMES "BUDDY" ATKINS JANUARY 14, 2019
 Commission and you are approached by someone
 wanting to discuss a matter that is or may become
 an issue in a proceeding, how would you handle the
 - A. Can you repeat that question?
 - Q. Sure. Assume that you're serving on the Commission and someone comes up to you wanting to talk about a matter that either is currently or could be a matter before the Commission, how would you handle that?
 - A. Well, that would be an ex parte communication, so that's against the Judicial Code of Conduct. And I would simply tell the person that I couldn't discuss the facts of the matter of the case and that would be that.
 - Q. And as a follow-up, are you aware that commissioners are subject to the Judicial Code of Conduct as well as state ethics laws?
 - A. I am.
 - Q. Do you or a member of your immediate family have stock or other financial interests that are directly controlled by you or your family member of a utility that is regulated by the PSC?
 - A. I do not and no member of my family does.

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situation?

	20 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
1	Q. If elected, would there be any
2	potential conflicts of interest, financial or
3	otherwise?
4	A. No, I do not see any.
5	Q. What would you do if a conflict were to
6	arise?
7	A. I think I would report that to the
8	chairman first and foremost. I think I would
9	report it to the PURC and to the House and Senate
10	Ethics Committee.
11	Q. Are you affiliated with any political
12	parties, boards or commissions that need to be
13	reevaluated if you are nominated and elected?
14	A. I don't think so. I was a member of
15	the Gills Creek Watershed Association Board, which
16	is y'all know when we had the horrific 2005(sic)
17	flood here in Columbia, Gills Creek was at the
18	brunt of that. However, last year I resigned my
19	position from that board, they're just a
20	not-for-profit. I am a member of the Shandon
21	Neighborhood Council, but I don't think that
22	qualifies much for concerns.
23	Q. Could you explain a little bit more
24	about your role with the Gills Creek Watershed and
25	how long you were on that committee?

1	EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 A. I will subject to check, I'll have
2	to look at those dates again
3	Q. An approximate is fine.
4	A. Yeah, prior to 2010 for two or
5	three years, 2007 to 2010, I was on the Gills Creek
6	Watershed Board. And then I went to work for
7	Richland County for four years. And then when I
8	left Richland County as the director of the
9	Conservation Department, we get a lot of work from
10	Gills Creek and I ended up going back on their
11	board for a couple of years.
12	Q. Do you belong to any organizations that
13	discriminate based on race, religion, or gender?
14	A. No, absolutely not.
15	Q. Have you attended any political
16	gatherings since submitting your application?
17	A. I have attended some fundraisers for
18	James Smith, who ran for governor. And as
19	consistent, as you can see in my application, I did
20	make a contribution to him back sometime last year,
21	I cannot remember that date.
22	Q. Okay. What is the appropriate demeanor
23	for a commissioner?
24	A. Well, I think you need to act
25	appropriately. You need to avoid any conflict or

1	EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 even the appearance of conflict. I think you need
2	to make sure that you are prepared for cases, that
3	you keep up, that you work hard. I think you need
4	to treat all the parties with respect and hopefully
5	they will treat you with respect if you do that.
6	But not give any kind of indication that you are
7	biased in any way and that you are a neutral finder
8	of the facts.

- Q. And would that apply while you were on the bench only or would it apply at all times?
 - A. No, it should be at all times.
- Q. What do you consider to be appropriate use of social media pursuant to judicial candidates?
- A. Well, that's a big, broad question too.

 I don't use social media, hate might not be an appropriate word, but I do not like Facebook. I do have a Facebook account, but I do not use it. I don't Tweet and I don't Snapchat.
- Q. If elected to serve as a commissioner, how would you envision your work schedule?
- A. Well, I think there's some people certainly in the past who have treated this as some kind of cushy job, but I think it's way more than a full-time job. I know when I was on the Commission

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 before, I probably averaged about 70 to 80 hours a week working. There's lots and lots of reading, there's not enough time during the day to read all

of it and you can expect to work every night at
work and on the weekends. So it's a hard job and
it takes a lot to keep up.

It's virtually impossible for any single commissioner to understand every economic, financial, legal, technical thing that goes on before the Commission.

- Q. Since the submission of your application to the Commission, can you please describe any contact or interaction you've had with members of the General Assembly?
- A. I have spoken to a number of the members of the General Assembly, I was here last week wearing my orange tie as a Clemson graduate. So I have spoken to a number of the members, both in the House and the Senate, and just tried to advise them that I was running for the Commission and that the screening was today. And I let them know about my qualifications, but have not asked them, nor have I asked anybody else to ask for a pledge.
 - Q. Okay. And just to clarify for the

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 record, have you sought or received the pledge of any legislator prior to today?

A. I have not.

- Q. Have you sought or been offered a conditional pledge of support by any legislator pending the outcome of your screening?
 - A. I have not.
- Q. Have you asked any third parties to contact members of General Assembly on your behalf before the final and formal screening report has been released?
- A. I have asked certain family members and other people to contact members of the General Assembly, but with the full knowledge and understanding of the pledge prohibition.
 - Q. Can you elaborate on that, please?
- A. Well, for example, I'm here in the Midlands, so I have some folks who -- who, for example, were constituents of James Smith, constituents of Mr. Finley, and they have contacted them just to try and ask them to pay attention to my screening and be aware that I'm running and look at my application, and if I'm fortunate enough to be nominated out. So I don't know that I can tell everybody that I've spoken to, I spoke to a number

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 of folks in the lobby last week and had made some 1 phone calls last year. I have restrained from 2 talking to anybody on this Committee. 3 4 Ο. Are you familiar with 48-hour rule, which prohibits a candidate from seeking pledges 5 for 48 hours after the report has been submitted to 6 7 the General Assembly? Α. Tam. 8 9 And have you made any contributions to Ο. members of the General Assembly since filing your 10 11 application? I have that one contribution to 12 Α. Mr. Smith. 13 And if elected, do you plan to serve a 14 Ο. full term? 15 16 Α. I do. ATTORNEY ANDERSON: And for the record, 17 18 Mr. Atkins' test score was a 91. I have no further 19 questions, Mr. Chairman. 20 SENATOR ALEXANDER: Thank you. 21 Ouestions? Representative Forrester. 22 REPRESENTATIVE FORRESTER: Thank you, 23 Mr. Chairman. 24 EXAMINATION 25 BY REPRESENTATIVE FORRESTER:

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
Q. Mr. Atkins, in your opinion, what are
the most important characteristics of a PSC
commissioner?

Α. Well, I think formal training, you need to have the appropriate educational background and one of those skill sets that's mentioned in Act 175. I think experience counts for an awful lot and experience directly with utilities counts for an awful lot. I think that's very important. I think you have to be hardworking. I think this is a difficult job. I think you have to be able to think on your feet. You have to be able in realtime, just like y'all are sitting up here, when I sat on the bench before, you get a lot of information thrown at you in realtime and you have to be able to put all that together and you need to ask questions.

So I think being able to use deductive and inductive reasoning to figure out where you ought to go next. And I think a good dose of common sense is real important.

- O. What about temperance?
- A. It's important for commissioners to have appropriate judicial temperament.
 - O. So could you explain why you were

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 1 evaluated to be of inappropriate temperament to serve on the PSC in your screening back in 2004? 2 Well, that was a mistake I made. 3 4 a conversation with a staff member, who I'd had a 5 number of agreements with over testimony that he had filed, one of which I included in my 6 7 application, which is the Dowd water case, and I lost my temper and I said, damn, to him privately. 8 I actually apologized in realtime to him. 9 I was 10 just frustrated with the situation, what was going 11 on. So all I can do is promise this 12 13 committee I will not do that again and I'll follow 14 the Cannons. However, I think that that one 15 five-second incident is not indicative of what I've 16 done over the last 40 years, both professional and 17 personally. All the many good things I've done and 18 I don't really think it's indicative of what I 19 bring to the Commission. 20 So that was just one occurrence during Ο. 21 your four-year term? 22 Α. Yes. 23 No others occurred? Q. 24 Α. Not to my knowledge, not that... 25 REPRESENTATIVE FORRESTER: Okay. Thank

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 1 you. SENATOR ALEXANDER: Any other 2 questions? 3 Senator from Horry. 4 SENATOR RANKIN: Thank you, 5 Mr. Chairman. 6 EXAMINATION 7 BY SENATOR RANKIN: I'm sorry, I missed your opening 8 9 comments, but I wanted to ask you one comment you 10 made, which may be obvious or may be far more 11 nuanced, but you asked -- you said you wanted to come back because you wanted to restore the public 12 13 faith or trust in the PSC? 14 Yeah, confidence and trust. Α. 15 Confidence, trust. And why in your Ο. view is it lacking? 16 17 Well, over the last two years, Senator Rankin, as did Mr. Alexander, y'all served 18 19 on the VC Summer Nuclear Committee, Mr. Hutto, and 20 of course, Mr. Sandifer and I think Mr. Mack, y'all 21 were on the House Utility Ratepayer Protection 22 Committee, I think that people are upset over what 23 has happened out at the Commission. I think the whole last decade has been a slow motion train 24 wreck. And I think consumers, members of the 25

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 public, even non-South Carolina Electric & Gas

2 ratepayers, the Santee Cooper customers, the co-op

3 | customers have lost total confidence in the

4 | Commission's ability to protect their interests.

5 And I just think that's just abundantly clear from

6 | what's happened.

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If you read The State paper last week, there was one day where every editorial was from a member of the public that just blasted the Commission and ORS over their decisions. Now, with the reforms y'all made last session, I think ORS is -- I'm going to applaud what they are doing now, I think they're really doing a great job. But I think there's still a lot of lost confidence and trust in the Commission, which you did hire two new commissioners last year, I think that went a long way in trying to remedy some of this, but that's why I'm here.

Q. And everybody is playing Monday morning quarterback, and you in this candidacy effectively are saying we need to restore confidence and trust. With what was presented before the PSC, by the stakeholders, those seeking the deal, would you have voted differently with what PSC had been provided represented by ORS?

January 14, 2019 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 1 Well, I have to be careful here because 2 under the Cannons I'm not supposed to comment on a 3 pending case, and I think as we speak the Commission is --4 5 Ο. True ---- the Commission is meeting, but I 6 Α. 7 will --Well, let me just help you back that up 8 9 a little bit. You've appeared before and submitted 10 comments in 2017, effectively saying you shouldn't 11 do this, that you took issue with going the route 12 that they and we as a state went, correct? 13 Right. And so I really have kind of Α. 14 three responses to that. I did testify in the 15 original BLRA certification hearing back in 2008 16 and I put together about 50 pages of statistical 17 testimony, just as a former commissioner and a ratepayer because I had concerns about their 18 19 application. First thing I said was I thought 20 their demand data was incorrect and it turned out 21 to be really incorrect, even more than I thought. 22 I didn't think they needed it then and 23 I advised the Commission of that and I presented a

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lot of statistical data and analysis that supported

that. So check that box. The other thing I was

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 very concerned about was with the pending, even on time and on budget, the 38 percent rate increase that was going to result at the nuclear plant. In any other rate case before the Commission, that would be considered rate shock. It should have been denied outright and the commissioners at the time should have known that it was going to be way more than that.

And certainly that's why South Carolina Electric & Gas abandoned the project because ultimately it was just going to be too high of a rate for the consumers to bear. The other thing also in that original testimony, I asked them to take judicial notice of the Duke Power case for their nuclear facility, Catawba 1 and 2, where I'm from in Rock Hill, and that if they weren't careful, they were going to bankrupt themselves because the outcome of that was that Piedmont Municipal Power bankrupted itself in regards to their piece of the nuclear plant investment and had to be bailed out by federal taxpayers through the Rural Utility Service.

So that was my testimony back then.

Now subsequent to that, if the Commission had been paying attention, because every year they get the

- EXAMINATION OF JAMES "BUDDY" ATKINS JANUARY 14, 2019 1 Integrated Resource Plans of South Carolina Electric & Gas, not only did that demand for --2 tend to go straight up, it went completely negative 3 4 and flat. So by the time they really started 5 constructing the plant in 2010 and 2011 and 2012, if the Commission had been paying attention to the 6 7 Integrated Resource filings and the demand and need for the plant, it would have been stopped there, 8 they didn't need it for another decade or two. 9 And 10 then the -- I think the last piece is just the 11 rates, what was going to go on with the rates. Ιf 12 they had known as they went along with the rates 13 increases, what those final resultant rate 14 increases were going to be, it should have been 15 stopped. So it was just a complete failure on part 16 of the Commission. 17 And again, not trying to set you up Ο.
 - Q. And again, not trying to set you up that you would have voted differently, but hypothetically speaking what you've testified to and I assume that this case is finished publicly since '08, you would have a descending vote to the PSC's decision?
 - A. If I had been on the Commission in '08, what I would have done is I would have made a motion for South Carolina Electric & Gas to

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 reapply, to go away and redo their application and get it right. And that was my recommendation to the Commission at the time. And if they did think that they could build it and the demand was there, to only build one unit, imagine where we would be if we'd only done one unit, the thing would be finished and we wouldn't be in this terrible financial situation and we wouldn't have Dominion now in charge of South Carolina Electric & Gas.

So that's what I would have done. So if they could have modified it, I would have voted for it. Without the modification I wouldn't. Now, during the subsequent pieces later on when they were asking for the rate increases, there was a provision in the BLRA that allowed the commissioners an out. And it allowed them to go in and look at the prudent costs associated at the time.

And so if they had looked at the demand data and the need for the facility, as I mentioned earlier, in 2012, 2013, and the resultant rate increase consequence way above 38 percent rate increase, then I would not have voted for that.

Q. Not that that's just one of many decisions, but everybody would agree to some degree

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 or another that this was the wrong decision. Do we

blame PSC alone? Do you blame PSC alone in its decision?

A. Oh, I want to be careful here. You know, the major blame has to go to South Carolina Electric & Gas because they were the ones -- this was their project. Some blame has to go on to the General Assembly because you folks passed the Base Load Review Act. But I think you were hoodwinked by South Carolina Electric & Gas quite honestly, it was a complicated bill. I understand how difficult y'all's jobs are in everything that you do. And I just think they took advantage of the General Assembly.

So the Public Service Commission carries a lot of blame for the original approval and then not doing anything with the rate increases. And I think ORS, which is missing in action, even though under the provisions of Act 175 where they were supposed to protect the interests of the utility, they just protected the interest of utilities. They didn't think about the consumer or better than that, the broad public interest of the state.

Look at what this has done to our



EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 1 state, it is the most phenomenal utility regulatory failure in our state and it's probably one of the 2 largest in the country. So it was just cascading, 3 it was just -- and, of course, South Carolina 4 5 Electric & Gas, I understand where they were coming from, they were trying to take advantage of the 6 7 huge federal tax credit that was going to expire. So it was just kind of a perfect storm, so to 8 speak. But I think there were opportunities, if 9 10 you'd have had informed people with technical backgrounds on the Commission, who could have 11 12 helped us avoid some of that. 13 And that would have been, you as a Ο. 14 Commission member or others, equally skilled or 15 equally pedigreed? 16 Yes, sir. And that's why I think we Α. 17 have to have that team. The starting point on all 18 these projects is always engineering and science. 19 When DOT wanted to build the Ravenel Bridge in 20 Charleston, they didn't hire an attorney first, all 21 due apologies, they didn't hire a financial 22 analyst, they hired oceanographers and soils people 23 and geologists and engineers, soil engineers, structural engineers, and they figured out whether 24

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or not they could build it and what it was going to

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 cost and everybody figured out how to permit it and pay for it. But that's the starting point and that's what we've lost at the Commission.

- Q. You as a candidate now as compared to you as a candidate in 2000, there's no difference that the General Assembly has imposed on you as candidate; is there, your background, your qualifications?
- A. No, sir, I think I ran as a technical person and with my technical background when you folks elected me in 2000.
- Q. So you join, if you're successful, folks who come from other diverse backgrounds, all again composed by or defined by the General Assembly in terms of your eligibility, right?
 - A. Yes, sir.
- Q. So the decision again, looking back or again, if you're successful, and you sit today and look back and critique, is it a failing of the composition of the PSC? Is it a failing of ours in saying that you've got to have X numbers with your background? Is it a failing in our not investing in ORS, to give them an auditor or give them subpoena power? Or is it a failing in the Commission for not being of their own, more

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 aggressive in exerting more due diligence on their own part?

A. I hate to say this, but I think it's probably all of the above. And that's, again, why I'm here and arguing please hire somebody with a technical background. You know, if you don't do it with me, then you're going to have an opportunity with the four new people in a year or so. You'll have an opportunity to do it then, but let's please make sure that we have a technical person on the Commission.

But I think y'all have gone a long way to remedy the problems at ORS, you've created the consumer advocate. One of the most incredible things you did, and this was certainly

Mr. Sandifer, I think you remember this, my testimony before the House Committee was I urged that part of the problem with the Commission were the settlement agreements that ORS brought to them. It was such political and judicial pressure with them to approve the ORS settlement agreements.

Well, if you're just going to have a blanket approval of those, then there's really not reason to have a Commission. The Commission has to -- has to exercise its judicial and regulatory

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1	38 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 oversight and it needs to be it needs to be
2	rigorous.
3	Let me make a quick Clemson example.
4	National football champions, Dabo Swinney,
5	wonderful coach, great judicial temperament,
6	wonderful Christian man, a great leader. I don't
7	think anybody can take any exception to how
8	wonderful Dabo Swinney is. As wonderful as he is,
9	you can imagine that when they had preseason
10	practice and their practices, that they had some
11	tough practices. That's why they became champions.
12	So my judicial philosophy is that the
13	utilities need to bring their A game to the
14	Commission. They need to tell us everything they
15	know, they need to bring the information we need,
16	it needs to have a lot of data and it needs to be
17	good and correct analysis. And then guess what, if
18	they've done that, then they've run the gauntlet
19	and they're going to be and that Commission
20	decision will be the best it can be.
21	SENATOR RANKIN: Last question,
22	Mr. Chairman, and then I'll hush.
23	BY SENATOR RANKIN:
24	Q. During your four years on the
25	Commission, were there examples of votes, decisions

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 whereby you differed with the majority of the

Commission that you would have filed or authored a descending opinion or based on your technical skills or background that the others didn't have?

A. Well, there were. And I can't remember all of those because there were a number of occasions when I was the single no vote because it was my belief that some of the information that was given to us or omitted in the case that was not on the record, was so important that the Commission should not approve that application or petition, whatever we had before us.

So there were a number of those and most of them had to do with technical issues. Now, having said that, there were also some, which I provided too, with you, where I got the Commission to vote with me to deny a power plant in the Upstate because they were going to de-water a stream and that didn't meet the standards of the siting act.

There was another one where I concurred to approve a merchant power plant, but I wrote a lengthy opinion on that, over 20 pages, really outlining still the problems with our siting act and wholesale markets. And part of the reason that

1	40 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 I included that is we are dealing with those same
2	issues again, but now on the distributed energy
3	resource side with solar. So there were a number
4	of those. I always tried to state what my reasons
5	were. But sometimes, again, the commissioners
6	didn't get the nuance.
7	SENATOR RANKIN: Okay, Mr. Chairman.
8	SENATOR ALEXANDER: Thank you.
9	Mr. Sandifer, Representative Sandifer.
10	REPRESENTATIVE SANDIER: Thank you,
11	Chairman.
12	EXAMINATION
13	BY REPRESENTATIVE SANDIFER:
14	Q. Mr. Atkins, welcome. Glad to see you
15	here.
16	A. Thank you, Mr. Sandifer.
17	Q. Just a couple of questions. In your
18	comments earlier, you wanted to re-establish
19	confidence and trust in the Commission by your
20	service well, that's how I understood it
21	A. Yes, sir.
22	Q and I'm a little concerned about
23	that statement. How would you characterize your
24	own ability of being able as one commissioner to
25	sway the public confidence and trust? I don't know

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 how you do that, I'm curious.

A. Well, it's like a puzzle. And so in this case, this puzzle has seven pieces. And you folks are in the process and you started it last year of putting together the new puzzle. And you hired and elected two very competent, smart lawyers, one with a ton of experience, Commissioner Ervin. And so this is just a continuation of putting that puzzle together.

You're correct, I, by myself cannot, I can only be a single member. So I'm just hopeful as a member of the public that this Committee and the General Assembly will continue to reform the Commission and put commissioners on there who can help re-establish that trust. But I understand your question and I hope that answers it.

- Q. Let me refer to something that
 Mr. Forester asked you about temperament. And you
 answered that this was a single event between you
 and a staff person, as I understand. But I want to
 know about the temperament that you would
 demonstrate with the other commissioners?
- A. I have a lot of respect for the other commissioners. Let me just give you a real world example. Commissioner Moseley, who was the

- EXAMINATION OF JAMES "BUDDY" ATKINS JANUARY 14, 2019 at-large commissioner, he and I didn't agree on everything, but he was my friend, he's still my friend. He's a very decent, decent person. So kind of like people on the Supreme Court who don't have the same philosophy like Justice Ginsberg and
- some of the other ones now deceased, but yet they're good friends.

So what I'm going to -- what I did then and what I would hope to do going forward is sit with my fellow commissioners and have a debate about the facts in a case and what we ought to do consistent with the law and what's best, so...

- Q. Let me just follow up with one other question. And in your role in this position, you said that you would like to see the PSC be modified and become more professional. Is that a suggestion that the legislature needs to take action to put only professional people on the Commission?
 - A. Well it's --
- Q. I mean, it would have to be us who modified it; would it not?
- A. Yes, sir, it's your call on how you do that. And consistent with my testimony back before the House Committee, I had suggested instead of having seven districts that you try and reduce that

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 1 and you have at-large seats of people of various backgrounds, a lawyer, an attorney(sic), a 2 financial analyst, an engineer, and so forth and so 3 4 So that would be another way to do it. 5 Another way to do it is I know in my undergraduate degree I learned a lot, but boy, did I really learn 6 7 a lot when I went to Clemson and got a master's degree in engineering. And then I learned a whole 8 lot more as I went back and got my doctoral degree. 9 10 But I think having a master's degree and the 11 complimentary experience with it is a beginning 12 point. 13 I mean, if you're -- if you want to 14 practice law, you got to have a law degree and so 15 by that same token, if we're going to have 16 attorneys as one part of the team of commissioners, 17 it would be wonderful if we had somebody with at least an MBA or a master's in econ or a master's 18 19 degree in engineering because you just learn so 20 much more. I mean, the attorneys on this committee 21 understand exactly what I'm talking about. think that would be beneficial, but that may be too 22 difficult of a reach. 23 24 REPRESENTATIVE SANDIFER: Okay. Thank 25 you very much. Thank you, Mr. Chairman.

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
SENATOR ALEXANDER: Other questions?

Senator from Orangeburg.

3 EXAMINATION

BY SENATOR HUTTO:

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- Q. Is there any reason that we shouldn't extend the PSC's oversight to the co-ops or Santee Cooper?
- Well, that is a difficult call because public power just operates under such different rules. And I think, Senator Hutto, I think you're well aware of those differences. Just the financing, the capital costs, you know, there are no equity investors in public power. But having said that, one of the things that -- if I could wave my magic wand is I wish instead of the Commission arguing in fuel cases about how to proceed with reliability and generation assets and those kinds of things, like we've had where we've had these horrific discussions and disagreements over solar, I think it would be better for the Commission -- for the General Assembly and the Commission to be able to have Integrative Resource Plan filings, which are truly docketed that the Commission has to approve.

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019

instead of just having those filed and the

Commission not having to approve them, then we

could incorporate Integrative Resource Plans, which

would incorporate Santee Cooper, whoever takes that

over, and the co-ops in the sense of the demand

side. So I think that would be a wonderfully

beneficial thing to do. Once that's done, then it

makes the arguments for siting, for generation

facilities, for transmission, for distributed

energy resources, fuel costs, all that becomes much

more straightforward and we just fine-tune that

every year before those petitions or applications

are made to the Commission.

You just can't do away with or underestimate the benefits of good planning. Just real quick, when I was on the Commission, the utility used to file their Integrative Resource Plans and they went into a file in one of our staff's offices and we never even saw them. So one of the things that I did do when I was there was I got the Commission to start having hearings on those, not that we approved them, but that was the first time that ever happened and now those are docketed, even though they're not approved by the Commission.

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14. 2019 1 SENATOR HUTTO: Thank you. 2 SENATOR ALEXANDER: Thank you. 3 EXAMINATION 4 BY SENATOR ALEXANDER: 5 I just wanted to follow up. Again, Ο. thank you for being here this morning. 6 7 Α. Thank you, Mr. Chairman. In your questionnaire under 12 and it 8 stops at the director of Richland County 9 10 Conservation Department in December of 2010 to May of 2014. And I know it says there: Please list in 11 chronological order, employment by you of 12 13 government agencies. Just for the record, since 14 2014 with employment, are you still with your other 15 LLC or --16 No, my Regulatory Heuristics business Α. 17 is completely inactive. I made a decision when I left in 2014, we -- my wife and I bought an old 18 19 house over in Shandon and we've been remodeling it. 20 And so what I've been doing is acting as a general 21 contractor on it. We're about to finish some of 22 the last remodeling. So I've been dealing with 23 building permits and electricians and plumbers and framers, and Lord, God help me. So that's what 24 25 I've been doing.

	47 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
1	So the other thing is the Gills Creek
2	Watershed Board was extremely active and I was
3	active on it and I probably put in about 20 hours a
4	week on the Gills Creek Board. One of the things
5	we did was we lost our executive director back in
6	this has all taken so long, I'm about to get
7	confused on timeframes, he left in December of
8	2016, and we had a \$700,000 grant from DHEC to some
9	work down on Gills Creek near the Gamecock Bi-Lo, a
10	stream restoration project. I took over that
11	project and became the project manager from
12	December to June of 2018.
13	And then that's when I decided to file,
14	I resigned that position. So I worked really as a
15	project manager doing a large stream restoration
16	project that was co-funded by DHEC and the City of
17	Columbia and Richland County.
18	SENATOR ALEXANDER: Thank you. Any
19	other questions?
20	REPRESENTATIVE SANDIFER: Mr. Chairman,
21	at this time I move that we go into executive
22	session for a briefing from staff counsel, just the
23	members of the committee.
24	SENATOR ALEXANDER: Do we have a second
25	to that? Any discussion on that motion? Hearing

	48 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
1	none, we'll go to vote. All in favor of going into
2	executive session, members present say aye.
3	(Unanimous aye votes).
4	SENATOR ALEXANDER: Any opposed?
5	Hearing none, it's unanimous.
6	(Executive Session.)
7	SENATOR ALEXANDER: Note the veil has
8	been lifted and no action has been taken in that
9	executive session. However, we will now go into
10	executive session by previous vote and order of
11	by the committee with each candidate. So we'd ask
12	that Mr. Adkins stay and we'll go into executive
13	session pursuant to that earlier motion for each
14	candidate.
15	(Executive Session.)
16	SENATOR ALEXANDER: The veil has been
17	lifted and there was no action taken in executive
18	session. So we're back with continuation of our
19	discussion screening of Mr. Atkins.
20	EXAMINATION
21	BY ATTORNEY ANDERSON:
22	Q. Mr. Atkins, to follow up on some
23	questions that you previously answered, we'd like
24	some additional clarification, if possible. For
25	the question had you attended any political

	January 14, 201
1	49 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 gatherings since submitting your application. And
2	I believe that you stated that you had attended
3	some fundraisers for Representative James Smith in
4	his gubernatorial race; is that
5	A. I think I attended two, one was both
6	of them were kind of neighborhood parties.
7	Q. Okay. And do you know if those
8	fundraisers were before do you remember the
9	dates of those fundraisers?
10	A. Oh, I would have to go back and look.
11	They were they were early on, but I do not
12	remember the dates.
13	Q. Okay. Do you recall if it was but
14	they were definitely two fundraisers that you
15	attended after you submitted your application?
16	A. Probably, yeah. I think they would
17	have been subsequent to my filing.
18	Q. Okay. And also for follow up to the
19	question: Have you asked any third parties to
20	contact members of the General Assembly on your
21	behalf before the final and formal screening report
22	has been released. And you said that you had
23	mentioned to some others and they had contacted
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of the pledging prohibition?

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members of the General Assembly, but you were aware

	January 14, 201
1	50 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 A. Correct. Right. It's my understanding
2	that I can have folks contact members or I can
3	contact members, but I have to limit it to
4	qualifications.
5	Q. Okay. I'm going to bring you the
6	language for 813-935-A.
7	A. Okay.
8	Q. For the last two sentences in
9	Subsection A it states: For the purposes of this
10	section, indirectly seeking a pledge means the
11	candidate or someone acting on behalf of and at the
12	request of the candidate, requests a person to
13	contact a member of the General Assembly on behalf
14	of the candidate before nominations are formally
15	made by the Review Committee. The prohibitions of
16	the section do not extend to an announcement of
17	candidacy by candidate or statement by the
18	candidate detailing the candidate's qualifications.
19	Can you please provided the Committee
20	your interpretation of what that means in regards
21	to third parties?
22	A. Well, when I read this, the last
23	sentence is specific to the candidate. Whereas the
24	prior or the former has to do with other persons.
25	So I would suppose that if I had a friend and they

	January 14, 2019
1	51 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 called representative A or B, then I would suppose
2	that they've contacted, you know, ahead of the
3	announce. Prohibition of this section does not
4	extend to announcement of candidacy by the
5	candidate or statement by the candidate detailing
6	my qualifications.
7	So I may have read that inappropriately
8	and had other people call people about my
9	qualifications.
10	Q. Do you know about any interactions that
11	have taken place between third parties that you may
12	have contacted and at their request they contacted
13	members of the General Assembly?
14	A. I know of one, a friend here in
15	Columbia. I had tried to discuss with a number of
16	other friends to try and contact members just to
17	advise them of my candidacy and my qualifications,
18	but I do not know if they ever contacted them. So
19	I can't say who if they did or who they
20	contacted.
21	Q. Okay.
22	A. No, I would suppose in strict
23	interpretation of that, since other people did it

and it was opposed to me, that that's problematic.

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52 EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 third parties about them contacting members of the 1 General Assembly --2 3 Α. Yes. 4 Ο. -- on your behalf? 5 Α. Yes. And prior to the report being released? 6 Ο. 7 Yeah, the report hadn't been written, so yes, it's prior to the report. That was my 8 9 oversight. But I can state that I don't believe that anything has come of those. 10 11 SENATOR ALEXANDER: Other questions? 12 EXAMINATION 13 BY SENATOR HUTTO: 14 So the question is --Ο. SENATOR ALEXANDER: Senator from 15 16 Orangeburg. 17 BY SENATOR HUTTO: 18 -- not on that point, but on the 19 attending political events, you made a statement 20 early on and, of course, Representative Smith was 21 in a primary before he was in an election. 22 think we've got the record that shows that your 23 contribution would have been made in June, which 24 would have been at or near the primary --25 SENATOR HUTTO: May? May or June --

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019
ATTORNEY ANDERSON: It was June.

THE WITNESS: Yep.

BY SENATOR HUTTO:

- Q. But you believe that you attended these, what you described as neighborhood events, in the fall of this year, which would have been after you filed?
- A. No, sir, I think one of them was during the primary. But I think one of was them after he had won the primary.
- Q. Well, the trigger is going to be for the purpose of us looking at what the rule says, I guess, or whether you did it after you were a candidate or not. And you became a candidate whenever you filed your papers with this committee. And I know you don't have your calendar necessarily in front of you, but that is the question.
- A. Well, it's my understanding and, of course, Senator Hutto, as you well know I'm not an attorney, it's my understanding in reading the Judicial Cannons that under Cannon 5 -- I have my cheat sheet here -- that candidates cannot have any political activity, they can't endorse candidates, make speeches, attend political meetings or solicit or make contributions. But however, that only

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 1 applies to judge candidates. When I read the Cannons, what I come away with is that non-judge --2 and I am not a judge -- judge candidates can do 3 4 those things. That was my reading as a layperson, 5 as a nonlawyer, you know, subject to check, that was what I was going on. But I tried to do that 6 7 and once I understood I was going to file, I tried to really not go to political functions, although I 8 do think I went to one after I filed as a 9 10 candidate.

EXAMINATION

BY SENATOR RANKIN:

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- Q. Mr. Atkins, I want to follow up on a prior -- I'm not sure -- that may be the latter subject of inquiry in terms of third-party contact, I don't believe that that is a problem, perhaps I am an island here, but I likened that contact not seeking a pledge because you, in fact, have said efforts reaching out to constituents of General Assembly, Midlands folks with the admonition that they not seek a pledge on your behalf; is that correct?
- A. Yes, sir. And I mean, I am very, very well aware of that. And I had some people go, oh, yeah, I'll go on your behalf and I'll tell them to

EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 vote for you. And I went, no, no, no, no, you 1 cannot do that, that is against the law, that is 2 3 against the pledge prohibition. Just tell them you 4 know them and that I'm running and look for me. 5 But you, again, at that point had Ο. specifically either instructed those folks, do not 6 7 seek a pledge, do not seek a commitment or what's -- how was the exchange? 8 9 Well, the exchange is you cannot ask Α. 10 them for a pledge. 11 Ο. Did you write -- do you have any 12 letters to anybody outlining your candidacy saying, 13 hey, folks --14 Nobody's written a letter and I have Α. 15 not given anybody any of the letters that I wrote 16 to you folks, the members of the General Assembly. Now, the committee I did not send those letters 17 18 saying, hey, I'm a candidate, and at the 19 appropriate time I look forward to talking with 20 you. And I had that provision -- I had that 21 provision in all my letters, of which I have kind 22 of the generic version. And I have a -- you know,

- Ο. This is a letter that you've sent to?
- To all the members of the General Α.

what it says is --

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EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 Assembly, but for the PURC.

- Q. And rather than your reading -- well, go ahead and read it, I guess.
- A. This is September 4th, so this would be the last paragraph: At the appropriate time, I look forward to discussing my qualifications with you, Senator/Representative, my bio attached for your review and consideration. Thank you for your service to our state and your continued work in addressing the nuclear failure and utility regulatory reform. And there's an asterisk that says: This letter is not intended to either directly or indirectly solicit a pledge from any member of the General Assembly, is provided a statement of my candidacy and qualifications consistent with Section 8-3-935 of the code.

So I put that on all the letters to make it explicitly clear that I was not asking anybody for a pledge.

Q. And then last, the -- your reading of the cannon that you've cited, in your understanding that you were not a judicial candidate and that would be your interpretation that you would be exempt from, as a candidate for or as a Commission member, exempt from attending political events --

1	EXAMINATION OF JAMES "BUDDY" ATKINS - JANUARY 14, 2019 A. Oh, no, just as a candidate. Just as a
2	candidate. No, once you're on the Commission you
3	can't that's prohibited.
4	Q. You don't see any difference between
5	the role of seeking an election and the role of
6	serving once elected, you don't see a distinction
7	there or you do see a distinction there?
8	A. Oh, I do, I do see a distinction. The
9	way I read, my lay reading of Cannon 5 is that it
10	says if you are a nonjudicial candidate, that you
11	can make speeches, attend political meetings, and
12	make contributions. Judicial candidates cannot.
13	But once you know, once you become a
14	commissioner or a judge, you sure can't do that.
15	I'm not going to become political if I'm on the
16	Commission, that's against all the Cannons, really
17	Cannon 2, to be outside any kind of influence from
18	family or friends or political persuasion,
19	anything, that's the 2nd Cannon.
20	But I don't know, maybe I read that
21	wrong too. My problem is I speed read.
22	SENATOR RANKIN: All right, I have
23	nothing further.
24	SENATOR ALEXANDER: Are there any
25	further questions at this time for Mr. Atkins?

summarize your educational and experience

1 background for the members of the committee.

administrative matters.

Ms. Belser earned a bachelor of science degree in biology from the College of Charleston and also obtained a law degree from the University of South Carolina. Ms. Belser served as general counsel in the Office of Regulatory Staff, which I will refer to as the ORS, since 2014. She provides legal advice to the agency, represents the ORS in proceedings before all courts in South Carolina and assists in developing the ORS position in

From 2003 to 2004, she served as an executive assistant for the Public Service Commission and assisted the commissioners in developing positions and cases by reviewing the record and law in the proceeding and drafting motions concerning those positions. From '93 to 2003, she worked as a staff attorney and deputy general counsel for the Public Service Commission where she represented the PSC at all levels of the judicial system.

From '91 to '93, she worked as an assistant solicitor for the Third Judicial Circuit.

From '90 to '91 as an associate with John E. Miles.

And she also served as a judicial law clerk for the

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Honorable James Mack Morris. And also briefly worked as a substitute teacher.

Ms. Belser was a candidate for the Public Service Commission, seat 6 in 2018. She was found qualified and nominated, but withdrew prior to election by the General Assembly.

Ms. Belser, do you have any changes that you would like to make to the Personal Data Questionnaire you submitted with your application?

MS. BELSER: Yes, I do, briefly. On page 2, question 7, listing of continuing education courses. From last fall, October 12th, 2018, I attended the ethics in administrative law seminar for the ORS and the Public Service Commission, as the annual class that employees of both agencies must attend.

And then on November 16th, 2018, I attended the CLE entitled: South Carolina local government attorney's institute that was sponsored by the South Carolina Association of --

MR. DAVIDSON: Just those two changes?

MS. BELSER: Yes.

MR. DAVIDSON: Do you have a written copy that you can provide at the conclusion of the hearing?

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61 I can provide it later 1 MS. BELSER: 2 this afternoon, I apologize. MR. DAVIDSON: And the record will 3 reflect those amendments. Thank you, Ms. Belser. 4 I would request that Ms. Belser's Personal Data 5 Ouestionnaire be entered into the record with any 6 7 confidential information being redacted. SENATOR ALEXANDER: So ordered. 8 9 (BELSER EXHIBIT 1, South Carolina 10 Public Service Commission edited Personal Data 11 Ouestionnaire for Florence P. Belser, was marked 12 for identification.) 13 MR. DAVIDSON: Mr. Chairman, as part of 14 our background investigation, we obtained a credit check, driver's license and SLED check and any 15 16 questions of a confidential or personal nature will 17 be taken up in the executive session. 18 Before we begin the questioning, 19 Ms. Belser, do you have a brief statement that 20 you'd like to make? 21 MS. BELSER: Thank you, Mr. Davidson. 2.2 Mr. Chairman and members of the committee, I'd just 23 like to thank you for the opportunity to appear 24 before you today and discuss my candidacy for the 25 Public Service Commission. This is the culmination

position thinking that my experience and legal

coming forward. I typically like to read through

some of the trade press and visit some of the NARUC sites that have position papers and conditions and case studies. There are a number of things on the Internet that are available. NARUC does a good job of making information -- and when I refer to NARUC, it's the National Association of Regulatory Utility Commissioners -- does a good job of making material available to commissions and staff and other interested parties.

With regard to cases that are pending before the Public Service Commission, I think I would approach those pretty much the same way as I do what I'm doing now, when an application comes in and when it's appropriate, we review the application. And most of the cases pending before the Public Service Commission, testimony must be submitted as pre-filed written form and you can go through that. And also to discuss issues with the other commissioners as to what the issues are.

Just as preparing a case from a party side, I think you look and see what the issues are, figure out what the theory of the case is and see if the evidence is going to support what's requested.

Q. Thank you. Given your current job at

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the Office of Regulatory Staff, particularly involvement with pending matters, are there any issues or conflicts that would arise, should you be elected, and if so, how would you handle those?

A. There could be a few. Prior to last spring, I was primarily operating in the Office of Regulatory Staff as kind of the business attorney advising the Commission -- or excuse me, advising management on a lot of procurement. I was working with the consumer services division, consumer service issues that might arise. Reviewing contracts and doing that.

With all that happened last year and the amount of work that it was taking people to prepare for the hearings last fall on the Base Load case, I became involved with a few of the cases that would appear. At the moment, I know that there's one pending sewer rate case that I have been involved a good bit with that I think would require recusal. There are several cases where I was listed as an attorney, but had not -- have withdrawn from some of those and have not attended meetings on those. In those cases, I would have to notify the parties that I was listed as an attorney and allow them the opportunity to object to me

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going forward on that.

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Any other matter where there may be a question as to whether I had too much involvement, I would have to disclose those to the parties. But there have been a few cases where I have been listed as counsel of record, but those -- the applications have not been filed, so I really have not even read an application on those. But it would be important to disclose any involvement to the parties, allow them the opportunity to -- without my knowledge of who might object, allow them the opportunity to object.

The Code of Judicial Conduct does allow for or does state that government attorneys that move on to a judicial office are not held quite to the same prohibitions of participation as attorneys who might have been practicing in the same firm as someone that goes on to a judicial office.

- Q. Thank you. And to follow up on that, if elected, would there be any other potential conflicts, financial or otherwise?
- A. I'm not aware of any financial or business conflicts that I would have.
- Q. What role does the PSC serve regarding the regulation of utilities?

- A. The Public Service Commission basically is the -- sets the -- or is the economic regulatory authority, they set rates and issue licenses of certain carriers or entities to operate as utilities within the state.
- Q. Could you please describe the purpose of utility regulation?
- A. Most utilities, water, sewer, electric, telephone, when they began, they were provided a service territory, and so they are in effect have -- hold a monopoly status. And because of that monopoly status, the economic forces do not keep the rates low. Generally if you -- if somebody is going to sell something too high, you'll go to a competitor and buy something at a better price.

But because the utilities -- and that's brought about mainly because of the infrastructure, we don't need two entities putting in millions of dollars of infrastructure in the same area. So the Public Service Commission and regulation was brought about to take the place of the competitive market and make sure that the rates are reasonable and in effect affordable for the utility. It's a curb to keep the utility from charging just whatever they want to a captive audience.

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- Q. Thank you. And to follow up on that, what are some of the key factors that a commissioner should consider in a rate case?
- A. Well, generally when an application for a rate case is going to come in, in the larger cases a cost of service study may have been done by the utility or in the case of a smaller company, some of our mom-and-pop water companies, they're going to have expenses and income to show over a certain test period.

It's important for the Commission and the parties to review any expenditures, just to make sure that they were prudent, make sure that any plant additions have been -- are in effect or have been completed or used and useful in providing the service to the customer. And then in reviewing all the expenses, once that becomes done, then with the large utilities at a rate of return, rate-based regulated, the Commission must decide an important return on equity to determine what the revenue requirement would be for the utility, in which to base rates.

Operating margin is typically used for some of our smaller water and sewer utilities in lieu of return on rate base. But it's important to

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- make sure that the rates are fair to the customer, but also provide the utility with sufficient coverage so they can continue to operate and provide services that they are providing to the public.
- Q. Are you familiar with the two advisory opinions issued by the Committee dealing with attendance at legislative receptions and at legislative caucus meetings?
 - A. Yes, I am.
- Q. Have you attended any legislative receptions or any legislative caucus meetings since receiving the advisory opinions?
 - A. I have not.
- Q. Have you attended any political gatherings since filing for office?
 - A. I have not.
- Q. Assume you're serving on the Commission and you're approached by someone wanting to discuss a matter that is or may become an issue in a proceeding, how would you handle that situation?
- A. Well, any issue that currently is or may become an issue, that would be subject to ex parte rules and I would need to respectfully advise any person wanting to discuss those issues that my

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position as a commissioner prohibits me from discussing those outside the context of the hearing. And if that was not sufficient to stop the conversation, if the conversation went further, I would be required to report that to the parties in the proceeding and advise them of the context of any communication such as that.

- Q. Are you aware that commissioners are subject to the Judicial Code of Conduct as well as state ethics laws?
 - A. Yes.

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- Q. Do you or an immediate member of your family have stock or other financial interests that is directly controlled by you or an immediate family member of a utility regulated by the Public Service Commission?
- A. Not -- when you look at the definition of immediate family as under the State Ethics Act, it's just me, I have no spouse, no children. My sister does -- I think she stills owns it, when my mother died we inherited some Duke Energy stock. I instructed the broker to get rid of mine. I don't know if she still has hers or what she's done with it. I don't know if she's holding it or if she's invested that.

- Q. Thank you. Are you affiliated with any political parties, boards or commissions that would need to be reevaluated if you were nominated and elected?
- A. No, I serve as a trustee on a land trust for a private school. And then I work with Palmetto Girl's State, which is a program of the American Legion Auxiliary, but that's it.
- Q. Do you belong to any organizations that discriminate based on race, religion or gender?
- A. We went through this last time and I think the answer is no. Even though I was in a sorority in college and I'm a member of American Legion Auxiliary, but they don't discriminate on that basis.
- Q. Thank you. What is the appropriate demeanor for a commissioner?
- A. Thoughtful, polite, need to give everyone involved in a proceeding the opportunity to be heard. Don't lose your cool, don't lose your temper. It's deliberative. You must make sure that the -- you put your best foot forward so that you and the body are fair and impartial in providing a good forum in which to decide a matter.
 - Q. And does that apply only while serving

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on the bench or do the rules apply seven days a week, 24 hours a day?

- A. No, it applies all the time. Your personal life can get you in trouble and you're subject to the Code of Judicial Conduct, if you're not careful.
- Q. Which leads me to my next question: What do you consider to be appropriate use of social media pursuant to the Judicial Cannons?
- A. You certainly don't put anything out there about any matters that are pending or give political opinions or any of that. If you're going to engage in social media, you have to be very careful with who you are friends with, I think is the term, because you can't -- you can't be viewed as favoring one group or one person over another.

And you certainly can't put political opinions out there under your name, just as you couldn't go out and talk about it orally.

- Q. Thank you. Have you made any contributions to members of the General Assembly since filing your application?
 - A. No, I have not.
- Q. Since the date that you filed to run for this office, could you please describe any

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interaction or contact that you've had with any member of the General Assembly?

A. Shortly after I filed, I think filing was in -- end of July or first part of August, I sent a letter to members of the General Assembly announcing my candidacy and explaining some of my background. Since the legislature has been -- well, even last fall, I think I did come over one day and I spoke, just introduced myself and just said that I was running for this and looked forward to being able to speak to people at an appropriate time.

And then I have been over in the Blatt building and the Gressette building in the lobby some last week, just speaking to people and announcing that I am a candidate for seat 2 and hope that I'll be able to talk with them more after today.

- Q. And more specifically, have you sought or received the pledge of any legislator prior to this date?
- A. No, I have not asked, nor have I received any commitment or pledge from any legislator.
 - Q. Have you sought or been offered a

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- conditional pledge of support by any legislator pending the outcome of your screening?
 - A. No, I have not.
 - Q. Have you asked any third parties to contact member of the General Assembly on your behalf before the final and formal screening report has been released?
 - A. I have not.
 - Q. Are you aware of any friends or colleagues contacting members of the General Assembly on your behalf?
 - A. I am not.
 - Q. Are you familiar with the 48-hour rule, which prohibits a candidate from seeking pledges for 48 hours after the report has been submitted to the General Assembly?
 - A. Yes.

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- Q. Do you plan to serve a full term if elected?
- 20 A. Yes.
 - MR. DAVIDSON: Lastly, Mr. Chairman, I note for the record that Ms. Belser scored a average of 94.75 on the test. I have no questions for executive session, therefore do we need to go into executive session --

75 1 SENATOR ALEXANDER: No, we have to do 2 questions by the members of the committee. Do we have questions by the members of the committee? 3 Yes, sir, Representative Forrester. 4 5 EXAMINATION BY REPRESENTATIVE FORRESTER: 6 7 Thanks for being here this morning, Ο. Ms. Belser. How do you go about making difficult 8 decisions, what's your process? 9 10 In the context of work, I try to look Α. 11 at all the information that I have. And if I need 12 to bounce ideas off, I find another attorney 13 usually in the office, somebody that I know I can 14 trust and can just -- sometimes I just say, I need 15 to say this out loud to see if it sounds stupid, is kind of how I'll do that. 16 17 But I do a lot of research and I do a 18 lot of reading. And I do want to make sure that 19 any decision is sound and based on evidence or law 20 or whatever the issue may be, that there is a sound 21 basis for it. 2.2 REPRESENTATIVE FORRESTER: Thank you. 23 SENATOR ALEXANDER: Senator from Horry. 24 SENATOR RANKIN: Thank you. 25 EXAMINATION

BY SENATOR RANKIN:

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- Q. Ms. Belser, welcome back. It seemed like we did this not too many weeks ago --
 - A. Not too long ago.
- Q. -- that's what the General Assembly has become, a mini groundhog day. Let me ask you, the sense of and the state of the PSC and ORS and all things energy, regulatory, General Assembly dictated or can dictate all things in the realm of who's doing what and who should have done more.

Obviously, PSC in the cross hairs of great scrutiny. The ORS in the cross hairs of great scrutiny by us as General Assembly as a result of the debacle out of Winnsboro. Do you agree with that characterization?

- A. I agree with your assessment, Senator.
- Q. Okay. And some have said that we need to clean house in every camp, every corner, that we need to clean house. Your role having served effectively as a career lawyer in the PSC and/or ORS, do you feel like you bear responsibility and could you have prevented the state of all things regulatory in South Carolina as it relates to VC Summer?
 - A. Senator, I think that everybody working

at ORS and everybody working at the PSC would love to have a do-over on this. I know that ORS was tasked with a serious responsibility and I think that the folks that were working on it were good people, honest people, and I think that they did the best that they could.

And I think the PSC is looking and trying to do what they can, as well as the legislature. The legislature has certainly given both ORS and the PSC some additional tools to work with. I wish that we would have been able to see something, but, you know, the fact of the matter is -- and I think that this came out during the hearing that there was some effort to hide and keep information.

And to that extent, I don't know how the ORS or the PSC could have broached or gotten through that veil of secrecy that the utility was trying to keep around certain information. I know that going forward, I think that this has taught everybody a lesson that we need to ask more questions. We need to dig a little deeper. I think -- I think that there was a lot of reliance on the idea of the regulatory compact and that we were all working in this together, that when we

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asked questions that we were getting all the information in truthful answers, but I think going forward there's got to be a lot of -- or more scrutiny in trying to see what -- if there's anything else.

This has shaken a lot of us to the core. But going forward, I don't -- I understand what you're saying about people wanting to clean house, but I think that a certain amount of experience and knowledge from this area is helpful as well. I don't know if that fully answers you or not.

- Q. Well, I appreciate that. In our book someone has submitted a letter asking about a particular incumbent effectively making the point that we should clean house. And you'd have to live on island not to know what's gone on in the last few years. I'm wondering in your role as -- and you were the chief counsel to ORS?
- A. I was the general counsel, but I'm not the chief legal counsel. That is currently someone else. And then I was not assigned to the -- to the VC Summer case. I'm not saying that I could have done anything differently, I'm just making a statement that the main attorney was handling that.

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I didn't attend the meetings. There was kind of an assigned team that was working on the VC Summer case. It was a pretty big case, as y'all are aware, and so they had dedicated attorneys and dedicated staff that were primarily working on that. I'm just laying the land, I'm not saying that I could have done any differently.

Q. And I appreciate that. I mean, the public wants to know, ultimately as I will be held accountable, we're all held accountable in terms of what hand -- what fingerprints we have on this decision. And I think it's easy for me to say, and perhaps it will ring hollow with my constituents in two years, that I operated based on what was presented to me. I operated based, perhaps wrongly in good faith reliance, upon what was presented to the public. What was offered in sworn affidavits, sworn testimony.

And so the decision I made back originally to vote for BLRA, my role in PURC, and every instance, can I sleep with a good conscience, I can. But that's a different accountability than yours in terms of us moving you forward to screen you out favorably here. So it is important to know whether you were not or whether you were -- not

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chief counsel, but you were general counsel to the ORS itself.

Could you, would you, should you, again, the term do-over -- God, please give us all a do-over -- but within your role specifically, if you were not assigned this case, what more could you have done? What more questions could you have asked in that role?

A. Well, I don't know what -- the way it was set up, I don't know that I could have. I did work on the first two appeals of just the initial licensing, but when the application -- when the application was sought and I worked on those, but that was just whether or not to grant the certificate and go forward with the building of the plant.

I just wasn't working on it on a day-to-day or month-to-month capacity. We had engineers. We had accountants. We had an attorney that was assigned. And I think now we know that we -- everybody has learned from this that we need to scrutinize things a little -- or a lot more than maybe taking someone's word for it. It's more along I think maybe we were too trustworthy. You can trust it, but you still need to verify.

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But when there is -- if there is a concerted effort or a deliberate effort to hide information, that's where it becomes difficult for anybody, whether it's the legislative body or a judicial body or the PSC or even the ORS folks that are doing the review to try to break through that, and how do you get a glimpse to know when that is.

But -- I mean, we've all got a lot of work to do to come back from this and to restore some public trust. And I think the only way to do that is to be accountable, to have transparency through the process. And there was a lot of -- and you mentioned you had a letter, there is a lot of education that can be done. I mean nobody likes to write that check every month for a bill that they think is too high.

But just comments that come in in a rate case, not necessarily this, the VC Summer case, but in a rate case is people don't understand how the rate-making process works. And it is convoluted and it is kind of one of those things that you expect that those that are the position of making the decision, that they are looking out for the best interests. And that's what you've got to do, you've got to commit into doing the best for

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the public and it's not just looking out for the utility. Unfortunately, you see that with a lot of the letters, ah, they're just giving the utility a guaranteed return, it's always -- it's not guaranteed, it's an opportunity to earn that return. It's trying to give the utility some incentive.

But I think it's important, you can't forget the customer piece, they've got to understand their rates. They've got to be able to figure out how to calculate their bill. I think we've got some rates that are so convoluted, a customer can't take their usage and figure out how to get to what they're being charged. And that's wrong. People need to understand how they're being charged, whether it's water, electricity, gas, whatever.

But we've got to move forward and just be accessible as we can within the bounds of the law. Explain it and hold ourselves to doing the best that we can for the people that we're serving because they've got to -- they've got to know -- I hope they'll understand that it's not just always giving the utility what they want. Nobody likes the rates to go up. I don't like for mine to go

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- up. But I think it's recognized that, you know, someone's utilities, monthly utilities, that's a huge chunk out of their paycheck, their take-home pay and we've got to try to help ease that as much as we can, but by the same token allow the utility to have the funds it needs to actually provide good, efficient service to the customers. And I know I got off on an tangent, Senator, I apologize.
- Q. Oh, no, hopefully last question or theme of the last question, in terms of what changes have been made by us this past session in terms of delineating, appointing a consumer affairs representative and the subpoena power for ORS, do you see that those two changes will further or for the first time perhaps ask ORS to ask the harder, further questions?
- A. I think that it will certainly -- it could change the tenor or the direction of some of the questions. You know -- and I'll just go back, Senator, if you'll allow me, when ORS was created and the public interest was defined in Chapter 4 of Title 58, there's no other place in Title 58 where public interests is defined. You can't even do a Westlaw search and find a case in South Carolina where the public interest is defined.

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So that was all we thought a wonderful addition because now we know we've got to look out for these things and it was a three-part test at that point. You know, the greatest ideas that somebody can come up with until we actually have -- we never know how they're going to come out. And I think over the years that we have tried to meet that public interests test. But as we have seen perhaps there were some competing interests in that.

And so I think that the General Assembly by redefining the public interests definition and taking out the part about looking out for the financial integrity of the utility, I think that that will aid in ORS's mission and hopefully in the PSC's. But the utilities have got attorneys and experts that they're bringing in to make that. So it doesn't need necessarily as we've seen, I think, all of them -- well, some of the mom-and-pops needed some help maybe, but for the most part the utility can look after themselves.

And I think that that does assist ORS and I think that it clarifies some issues for them. The subpoena power, I think is already demonstrated its effectiveness just from talking in the office.

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85 ORS would have never been able to get someone from 1 2 Westinghouse and someone from, I believe it was Fluor or Bechtel to a deposition without that 3 subpoena power. That would have never have 4 5 happened prior to that change. So that's already 6 shown some benefit. 7 And information that can be obtained by ORS in that manner and put forth to the Commission 8 9 will be of value inevitably. 10 SENATOR RANKIN: Last question, 11 Mr. Chairman. 12 SENATOR ALEXANDER: Yes, sir. 13 BY SENATOR RANKIN: 14 Ο. Ms. Belser, will we ever go this road 15 again? On a nuclear plant? 16 Α. 17 I'm talking about in terms of -- not 18 nuclear generally, we've been duped, that's been 19 offered before and that's a nice way of saying 20 we've been hoodwinked. Will the Commission be 21 hoodwinked again? 2.2 I hope not, but we are -- the Α. 23 Commission operates under the Code of Judicial Conduct, as we're all aware, y'all wrote that, 24 25 y'all put them under that, and there's certainly a

- lot of benefits to that, but the decisions are going to have to be made on the record that's presented by the parties. And I don't know -- hopefully dishonesty can be vetted out in an adversarial proceeding, but I don't know that it always can be.
 - So I think that in today's environment where we stand after everything from the last 18 months or so, I think that there's going to be a lot more inquiry, a lot more questions, a lot more scrutiny. I hope that we would never have to go through something like this again, but I can't say that with certainty. I think there will be a lot of people looking to try to make sure that doesn't happen.
- SENATOR ALEXANDER: Any other questions? Representative Sandifer.
- 18 REPRESENTATIVE SANDIFER: Thank you,
- 19 Mr. Chairman.

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20 EXAMINATION

- 21 BY REPRESENTATIVE SANDIFER:
- Q. Ms. Belser, a few minutes ago you were asked about social media. Do you utilize it at all?
 - A. I have a Facebook account and I have a

1 | Twitter account. I don't put much on Twitter, I

2 usually am looking at -- I'm reading other people.

3 | Most of the stuff I put on Facebook, it might be a

picture of my dog or my cat or my Godchildren or

5 | Girl's State, but that's about it. So I do use it,

but I really don't put a lot out there. Nothing

7 | about my opinion.

8 REPRESENTATIVE SANDIFER: Thank you

9 very much.

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EXAMINATION

BY SENATOR ALEXANDER:

- Q. Listening to the dialogue and response, how would you use your experience you have to date as a commissioner?
- A. One thing when I started at the Public Service Commission, just getting up-to-speed on the language and the lingo and the acronyms, it took years to develop that. So at least I have that. I think I have a good grasp on the law of the state as far as I don't try to remember anything, I at least know where to go look for it, even when I think I know the answer. I learned this a long time ago, if I think I know the languages of the statute, I still pull the statute and read it, just so I don't miss a word that can change something.

But I think that I bring -- my experience allows me to hopefully look at issues critically and within the bounds of the law of the statutory and case law in South Carolina and affords me a good basis on which to evaluate the evidence and the matters that would be pending before the PSC.

SENATOR ALEXANDER: Okay. Any questions? Hearing none, we'll -- by previous order and motion, we'll go into executive session.

(Executive session.)

SENATOR ALEXANDER: The veil has been lifted and there was no action taken in executive session. Any further questions of Ms. Belser? Hearing none, then we'll excuse you. Thank you for being here today and being a part of this process.

MS. BELSER: Thank you, Mr. Chairman.

I'd like to thank you and members of committee for your attention this morning. I'd also like to thank your staff, they have been wonderful in keeping us all informed on what's going on in the schedule, they've just been very helpful.

SENATOR ALEXANDER: Thank you for those comments. To help us proceed, I would like to have us have a recess from now until 1:25. So is there

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1	EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 any objection to that? Hearing none. Motion from
2	Representative Sandifer, we'll have a recess to
3	1:25.
4	(A luncheon recess transpired.)
5	SENATOR ALEXANDER: Good afternoon.
6	We're back in session after our recess. Our third
7	candidate is Patricia P. Carson. And we appreciate
8	your patience with us to get to this point and
9	we're delighted to have you with us this afternoon.
10	I'm going to ask the court reporter to swear you
11	in, please.
12	PATRICIA P. CARSON
13	being first duly sworn, testified as follows:
14	SENATOR ALEXANDER: Ms. Anderson.
15	ATTORNEY ANDERSON: Good afternoon
16	Ms. Carson. I'm going to give a brief description
17	of Ms. Carson's background. Ms. Carson received a
18	bachelor of science degree from the Missouri School
19	of Minds in metrology, with a major in engineering
20	management. She is the current mayor of North,
21	where she was elected in November of 2015. From
22	2010 to 2015, she served as council member in
23	North. And has worked as an industrial engineer on
24	various corporate projects since 1975.
25	She has also previously worked at

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1	EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 Colonial Life Insurance as a public sector analyst,
2	actuarial analyst, product manager and corporate
3	project manager. Citi Corp. Acceptance Company as
4	a senior operations research financial analyst.
5	She was employed by Lever Brothers and Proctor and
6	Gamble Paper Products as an industrial engineer and
7	she also worked for Olin Brass Winchester Western
8	as a marketing engineer.
9	Ms. Carson, do you have any changes
10	that you would like to make to the Personal Data
11	Questionnaire you submitted with your application,
12	other than the changes that you may have already
13	submitted?
14	MS. CARSON: No, ma'am.
15	ATTORNEY ANDERSON: I would request
16	that Ms. Carson's Personal Data Questionnaire be
17	entered into the record with any confidential
18	information being redacted.
19	SENATOR ALEXANDER: So ordered.
20	(CARSON EXHIBIT 1, South Carolina
21	Public Service Commission edited Personal Data
22	Questionnaire for Patricia P. Carson, was marked
23	for identification.)
24	ATTORNEY ANDERSON: As part of our
25	background investigation for Ms. Carson, we

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1	EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 obtained a credit check, driver's license, and SLED
2	check. And any questions of a confidential or
3	personal nature will be taken up in executive
4	session.
5	Before we begin, do you have a brief
6	statement that you'd like to make?
7	MS. CARSON: I would just like to thank
8	the committee for the opportunity to appear before
9	you this afternoon. It's a pleasure, a privilege
10	and an honor to be here and I look forward to
11	answering your questions.
12	EXAMINATION
13	BY ATTORNEY ANDERSON:
14	Q. Ms. Carson, please state your name and
15	home address for the record.
16	A. Patricia P. Carson. Home address is
17	8510 Salley Road, in North, South Carolina, 29112.
18	Q. And are you registered voter?
19	A. Yes, ma'am.
20	Q. And in which Congressional District are
21	you registered to vote?
22	A. Two.
23	Q. The Secretary of State's Office website
24	indicates that you are an agent of North Arbor Day,
25	Inc. Can you please give a description about this

EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 1 entity and your role? That entity was established with the 2 Α. help of Mr. Jake Moore in order for --3 4 SENATOR ALEXANDER: Would you maybe 5 come closer to the microphone, please, ma'am. MS. CARSON: Okay. That entity was 6 established with the help of Mr. Jake Moore in an 7 effort for the municipality to receive funds for 8 beautification as a nonprofit. So I consider it a 9 10 nonprofit arm of the town. BY ATTORNEY ANDERSON: 11 12 Why are you interested in serving on Ο. 13 the Public Service Commission? 14 I see serving on the Public Service Α. 15 Commission as the opportunity to continue my 16 service as a public servant. And my engineering 17 discipline I believe would add value to the 18 Commission. 19 Have you attended any hearings at the Ο. Commission? 20 21 Α. Yes. 22 Ο. Have you read any of the Commission's decisions? 23 24 Α. Yes, I read the daily e-mail report 25 that comes out.

- Q. How would you expect to get up-to-speed on the issues confronting the Commission?
- A. I would like to tap upon Mr. Justin Williams to act as my mentor in serving on the Commission and work collaboratively with other members of the Commission as well.
- Q. Okay. Are you familiar with the two advisory opinions issued by the Review Committee dealing with attendance at legislative receptions and at legislative caucus meetings?
 - A. Yes.

- Q. And have you attended any legislative receptions or any legislative caucus meetings since receiving the advisory opinions?
 - A. No, ma'am.
- Q. Assume that you are serving on the Commission and you are approached by someone wanting to discuss a matter that is or may become an issue in a proceeding, how would you handle the situation?
- A. I would very politely tell them that I am not at liberty to discuss that. And if necessary, I would physically remove myself from the situation.
 - O. Are you aware that commissioners are

1	94 EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 subject to the Judicial Code of Conduct as well as
2	state ethics laws?
3	A. Yes.
4	Q. Do you or a member of your immediate
5	family have stock or other financial interests that
6	are directly controlled by you or your family
7	member of a utility regulated by the Public Service
8	Commission?
9	A. No, ma'am.
10	Q. If elected, would there be any
11	potential conflicts of interest, financial or
12	otherwise?
13	A. No.
14	Q. What would you do if a conflict were to
15	arise?
16	A. Remove the conflict.
17	Q. Are you affiliated with any political
18	parties, boards, or commissions that would need to
19	be reevaluated if you are nominated or elected?
20	A. No, ma'am.
21	Q. Do you belong to any organizations that
22	discriminate based on race, religion or gender?
23	A. No.
24	Q. Have you attended any political
25	gatherings since submitting your application?

1	95 EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 A. No, ma'am.
2	Q. What is the appropriate demeanor for a
3	commissioner?
4	A. Impartial, balanced, and respectful at
5	all times.
6	Q. Okay. And would that apply just while
7	you were on the bench or at all times?
8	A. At all times. I experience that now in
9	my current role as mayor.
10	Q. What do you consider to be appropriate
11	use of social media pursuant to the Judicial
12	Cannons?
13	A. None whatsoever.
14	Heather, may I go back to a question
15	that you asked earlier?
16	Q. Yes, ma'am.
17	A. Could you restate that question
18	regarding affiliations with any entities and
19	whether or not they need to be reevaluated?
20	Q. Sure. Are you affiliated with any
21	political parties, boards or commissions that would
22	need to be reevaluated if you are nominated and
23	elected?
24	A. I would have to remove myself as mayor
25	from the town of North, if elected.

1	EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 Q. Thank you for that clarification. If
2	elected, how do you envision your work schedule?
3	A. I will work deliberately and as long as
4	it takes to get the work done. As an example of
5	that, as mayor in a small municipality, I'm working
6	40 to 50 hours a week now just to run a small town
7	and I am dedicated to whatever it is that I take
8	on.
9	Q. Please explain the general rule
10	regarding ex parte communications.
11	A. I don't know that I know the answer to
12	that.
13	Q. Okay. What role does the PSC serve in
14	regards to the regulation of utilities?
15	A. The PSC is established to exists to
16	establish fair and reasonable rates for those
17	utilities that fall under their purview.
18	Q. Fair and reasonable to whom?
19	A. Pardon me?
20	Q. Fair and reasonable to whom?
21	A. Both the customer and the utility
22	itself.
23	Q. What are the key factors that a
24	commissioner should consider in a rate case?
25	A. The fairness of the rates to the

and it was for municipalities to learn more about what the legislature was going to do in 2019. Senator Hutto was there, along with Senator

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1	98 EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 Matthews and Russell Ott. But it was it was
2	more of an educational breakfast meeting.
3	MS. CARSON: Senator Hutto, do you want
4	to add to that?
5	SENATOR HUTTO: The Lower Savannah
6	Council on Governments invited all the mayors and
7	city councilmen and everybody to a breakfast where
8	we talk about issues.
9	BY ATTORNEY ANDERSON:
10	Q. Have you sought or received the pledge
11	of any legislator prior to today?
12	A. No, ma'am.
13	Q. Have you sought or been offered a
14	conditional pledge of support by any legislator
15	pending the outcome of your screening?
16	A. No, ma'am.
17	Q. You asked any third parties to contact
18	members of the General Assembly on your behalf
19	before the final and formal screening report has
20	been released?
21	A. No, ma'am.
22	Q. Are you aware of any friends or
23	colleagues contacting members of the General
24	Assembly on your behalf?
25	A. No, ma'am.

1	99 EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 Q. And are you familiar with the 48-hour
2	rule, which prohibits a candidate from seeking
3	pledges for 48 hours after the report has been
4	submitted to the General Assembly?
5	A. Yes.
6	Q. And if elected, do you plan to serve a
7	full term?
8	A. Absolutely.
9	Q. Thank you, Ms. Carson.
10	ATTORNEY ANDERSON: Mr. Chair, have no
11	further questions. For the record, I would like to
12	note that Ms. Carson received a score of 53 on the
13	test.
14	SENATOR ALEXANDER: Thank you.
15	Questions? Yes, sir, Representative Mack.
16	REPRESENTATIVE MACK: Thank you
17	Mr. Chair.
18	EXAMINATION
19	BY REPRESENTATIVE MACK:
20	Q. Ms. Carson, thank you for your
21	willingness to volunteer to serve. On the outside
22	looking in, how would you analyze the Commission
23	and all that has happened in the last few years,
24	what's your perception of it, and how do you feel
25	you can make a positive impact going forward?

January 14, 2019 100 EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 1 I did attend one of the public hearings that was held prior to the merger going on, and I 2 know there was a lot of highly visible concerns 3 expressed by consumers. I believe that my 4 5 engineering discipline and my work in the corporate private sector and in the public sector, that 6 discipline has taught me to conduct very thorough 7 and investigative research. 8 9 I'm known to always do my homework. 10 And I believe that that discipline would add value to the Commission if I were elected to serve. 11 12 SENATOR ALEXANDER: Thank you. 13 EXAMINATION 14 BY SENATOR ALEXANDER: 15 How would you use your experience as Ο. 16 mayor of North to help you if you became a 17 commissioner? 18 Well, as mayor I am responsible for Α. 19 many -- for all aspects of the town. I manage a 20 wastewater treatment plant. The police force. 21 Public works department. And an administrative 22 task -- administrative staff. So I'm tasked with 23 many facets of local government. And I think my

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experience there in multitasking and understanding

the aspects of each of those entities of the

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1	EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 municipal government would help me to add value to
2	the Commission.
3	SENATOR ALEXANDER: Representative
4	Sandifer?
5	REPRESENTATIVE SANDIFER: Thank you,
6	Mr. Chairman.
7	EXAMINATION
8	BY REPRESENTATIVE SANDIFER:
9	Q. Ms. Carson, how large a population is
10	North?
11	A. 850 people.
12	Q. And so you are the city manager, all of
13	these things, there's really no administrator to
14	operate all of these systems; is that correct?
15	A. I am the mayor and we do not have a
16	town administrator.
17	REPRESENTATIVE SANDIFER: Thank you
18	very much.
19	SENATOR ALEXANDER: Other questions?
20	In my previous motion, we'll go into executive
21	session with the candidate staying with us.
22	(Executive session.)
23	SENATOR ALEXANDER: The veil has been
24	lifted and no action was taken in executive
25	session. Ms. Carson, we appreciate your time with

EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 us today and being available for our questions.

Thank you so much. You can comment, if you'd like to, that would be fine.

MS. CARSON: As I mentioned earlier, I always do my homework, so I have prepared a closing statement that I would like to share with you.

Thank you again for the opportunity to meet and speak with you this afternoon. The time that I have spent reading and studying has been a tremendous learning opportunity for me, not only as a candidate, but as a consumer. With all due respect, it is imperative that the public's confidence in the PSC be restored. To that end, the PSC needs a fresh face, a newcomer. My engineering discipline and government experience are the needed complement to the makeup of the Commission.

I understand that the PSC is tasked with rulings on very important matters. I understand and I am committed to working diligently and systematically toward that end. My letters of recommendation describe me as bright, honest, energetic, a good steward of personal and public finances, polite, respectful, inquisitive and deliberate, and possessing a gentle but firm

103 EXAMINATION OF PATRICIA P. CARSON - JANUARY 14, 2019 1 demeanor in a cool and measured approach when conducting business. 2 My engineering discipline is my forte 3 4 even as a mayor, continually seeking opportunities 5 for efficiencies and ultimately the optimization of complex processes. I am psychologically 6 7 self-employed. Serving on the PSC would be a great opportunity for me to work collaboratively with 8 other commissioners and offer my diverse 9 10 engineering, government operations, and financial 11 experiences. I am the new face that the Public 12 13 Service Commission needs. And I thank you for your 14 time. 15 SENATOR ALEXANDER: Thank you. You're 16 dismissed, thank you. 17 Good afternoon. We now have with us 18 Mr. Bruce K. Cole for screening for seat number 2 19 of the Public Service Commission. Good afternoon, 20 sir. 21 MR. COLE: Good afternoon, sir. 22 are you, Senator? 23 SENATOR ALEXANDER: Fine, thank you. 24 It's good to see you. And I ask that the court 25 reporter swear you in.

104 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 BRUCE K. COLE being first duly sworn, testified as follows: 2 SENATOR ALEXANDER: 3 Mr. Davidson. 4 MR. DAVIDSON: Good afternoon, Mr. Cole. And Mr. Chairman, I'm going to go through a 5 summary of Mr. Cole's educational background and 6 7 experience. Mr. Cole graduated from Harvard 8 9 University with a degree in economics. He has a 10 master's degree in accounting from Northeastern University. And an MBA from Stanford. He also has 11 12 a Ph.D. in planning and design in the building 13 environment from Clemson University. 14 From the late 1970s to early '80s, he 15 was an economic analyst and auditor. From the '80s 16 through about '97, he was employed in various areas 17 regarding telecommunications and some cable 18 television experience. And from 1997 to 1999, he 19 served the City of Boston as the chief financial officer of Boston Public Library. And from '99 to 20 21 '02, he served as the chief executive consultant 22 for John Hancock Financial Services. And also 23 founded the Boston Rental Housing Association. 24

In addition, he has served at several institutions of higher eduction as an associate or

105 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 visiting professor, including Allen University, Southern Wesleyan and University of South Carolina. 2 Since 2007, Mr. Cole has been the managing director 3 for Palmetto Realty Advisors. He also founded the 4 5 Richard T. Greener Institute for Social Policy Research in 2014. And is the Chief Financial 6 Officer of Electronic Health Network. 7 Mr. Cole, do you have any changes that 8 9 you would like to make to the Personal Data 10 Questionnaire you submitted with your application? 11 I do not. MR. COLE: 12 MR. DAVIDSON: At this time, Mr. 13 Chairman, I would request that Mr. Cole's Personal 14 Data Ouestionnaire be entered into the record with 15 any confidential information being redacted. SENATOR ALEXANDER: So ordered. 16 (COLE EXHIBIT 1, South Carolina Public 17 18 Service Commission edited Personal Data 19 Questionnaire for Bruce K. Cole, was marked for 20 identification.) 21 MR. DAVIDSON: As part of our 22 background investigation, we obtained a credit 23 check, driver's license and SLED check, any 24 questions of a confidential or personal nature will 25 be taken up in executive session. Before we begin

106 2019 EXAMINATION OF BRUCE K. COLE - JANUARY 14, the questioning, Mr. Cole, do you have a brief 1 statement that you would like to make? 2 3 MR. COLE: I do. Thank you. 4 MR. DAVIDSON: Thank you. MR. COLE: I'd like to thank the 5 Commission for this opportunity to come before you 6 7 today. I have 35 years of experience as an accounting professional. 30 years experience as a 8 finance professional. And 15 years experience in 9 10 policy research and development. Through my 11 consulting research, I've developed an expertise in strategy, risk assessment, value creation and value 12 13 preservation. 14 As rates are a metaphor for fairness 15 regarding the apportionment of burdens and benefits 16 of past and future infrastructure choices, I bring 17 a unique perspective that can help the state make better decisions that will ultimately improve the 18 19 well-being of its citizens, thank you. 20 EXAMINATION 21 BY MR. DAVIDSON: 22 Ο. Thank you. Could you please state for 23 the record your name and home address? 24 Α. My name is Bruce Kevin Cole. And my 25 address is 309 North Trenholm Road in Forest Acres,

In Re: Public Service Commission Screenings 2019 Public Service Commission Screening Hearing 107 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 South Carolina. Are you registered a voter? 2 Ο. 3 Α. Yes. 4 Ο. In which Congressional District are you 5 registered to vote? Α. District 2. 6 7 Ο. Could you please describe to the committee why you're interested in serving on the 8 Public Service Commission? I know you've touched 9 10 on that briefly, but if there's anything else you'd 11 like to add. 12 Sure. I've lived in many parts of the Α. 13 country and traveled to many places around the 14 I've grown to love South Carolina for its 15 people and wonderful diversity of natural 16 resources. I feel that we have so much unrealized 17 potential and I would like to help us unlock the 18 many opportunities that the emergent energy sector 19 has to offer. I enjoy working in industries and 20 21 transition, like energy and communications. And as 22 a commissioner, I can bring to rate-making 23 decisions the insights from the many lessons

- learned over the years.
 - Have you attended any hearings at the Ο.

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In Re: Public Service Commission Screenings 2019 Public Service Commission Screening Hearing 108 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 Commission, the Public Service Commission? 2 Α. I have. Have you read any recent Commission 3 Q. 4 decisions? 5 Α. I have. How would you expect to get up-to-speed 6 Ο. 7 on the issues confronting the Commission, if elected? 8 I would review the PSC's website. I 9 Α. 10 would review current and past dockets, I would review NARUC materials and attend their 11 12 conferences. I would review the ORS website and 13 reading literature pertaining to the state's energy 14 plan and the IRPs from various suppliers. And I 15 would also review some of the academic literature. 16 What role does the Public Service Ο. 17 Commission serve regarding the regulation of 18 utilities? 19 The General Assembly established the Α. South Carolina Public Service Commission to carry 20 21 out certain statutory responsibilities imposed by 22

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EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019

rates for some services provided by telecommunications companies. The Commission also sets rates for privately-owned water and wastewater companies, for-hire carriers for household goods and hazardous waste for disposal and taxi cabs.

The activities and operations of the Public Service Commission affect all persons in the state since the service is rendered by the Commission's jurisdictional entities, directly or indirectly reach all persons in the state.

According to Title 58 of the SC Code of Laws governing public utilities, services and carriers, the Commission is vested with power and jurisdiction to supervise and regulate the rates and service of every public utility in the state and to fix just and reasonable standards, classifications, regulations, practices and measurement of services to be furnished, imposed or observed and followed by every public utility in the state.

In addition, the Commission is empowered to fix agreements, contracts, and rates between common carriers in telephone and telegraph companies. According to the standards set by the Bluefield Hope & Southern Bell U.S. Supreme Court

EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 cases, the PSC is the regulatory body with primary responsibility for considering and deciding the public interests and determining just and reasonable rates that are consistent with the public interests.

- Q. What role does the Public Service

 Commission play in setting energy policy for the state of South Carolina?
- A. Policymaking is the domain of the state assembly; however, the PSC has the obligation to further the statutory goals of the SC Energy Plan Act, these include to ensure access to energy supplies at the lowest practical environmental and practical costs to ensure of long-term access to adequate to reliable energy supplies. Ensure that the demand side options are pursued wherever economically and environmentally practical.

 Encourage the development and use of clean energy resources, including nuclear energy and energy conservation and efficiency, and indigenous renewable energy resources.

Its goal is also to ensure that basic energy needs of all citizens, including low income citizens are met. It's designed to ensure that energy vulnerability to international events is

EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 minimized. Ensure that energy-related decisions promote the economic and environmental well-being of the state and maximize the ability of South Carolina to attract retirees, tourists, and industrial and service-related jobs. And finally, to ensure that long-term energy decisions do not conflict with long-range energy needs.

- Q. Is there a difference between encouraging particular energy policies as opposed to impartial application of the law?
- A. Well, encouraging policies is, again, the domain of the assembly, the -- applying the law would be the domain of the PSC in this regard.
- Q. Do you think the role of the Public Service Commission should be modified?
- A. That's a good question. Given the out -- we'll see given the outcome of the latest order.
- Q. What are the key factors that a commissioner should consider in a rate case?
- A. The key factors include the letter of the law, the facts presented in the case, and the need to maintain a balance between IOU shareholder interests and the interests of South Carolina ratepayers.

1	112 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 Q. Are you familiar with the two advisory
2	opinions issued by the review committee dealing
3	with attendance at legislative receptions and at
4	legislative caucus meetings?
5	A. I am.
6	Q. Have you attended any legislative
7	receptions or any legislative caucus meetings since
8	receiving the advisory opinions?
9	A. I have not.
10	Q. Have you attended any political
11	gatherings since filing for this office?
12	A. I have not.
13	Q. Assume you are serving on the
14	Commission and you are approached by someone
15	wanting to discuss a matter that is or may become
16	an issue in a proceeding, how would you handle that
17	situation?
18	A. I would explain to them that I'm not at
19	liberty to talk about that subject and change the
20	subject or avoid the person altogether.
21	Q. Are you aware that commissioners are
22	subject to the Judicial Code of Conduct, as well as
23	state ethics laws?
24	A. I am.
25	Q. Do you or a member of your immediate

1	EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 family have stock or other financial interests that
2	is directly controlled by you or your family member
3	of a utility regulated by the Public Service
4	Commission?
5	A. We do not.
6	Q. If elected, would there be any
7	potential conflicts of interests, financial or
8	otherwise?
9	A. No.
10	Q. I understand you're a committee member
11	of the Sierra Club and they are engaged in certain
12	matters at times before the Public Service
13	Commission. Do you believe that that could create
14	a potential conflict of interest in the future?
15	A. As I mentioned last time I came before
16	the board or the Commission, I'm no longer involved
17	with the Sierra Club.
18	Q. You're no longer involved with the
19	Sierra Club?
20	A. I resigned my position in March of this
21	year or last year.
22	Q. March of 2018?
23	A. Yes.
24	SENATOR ALEXANDER: I'd like to get a
25	clarification on that, if I could. I hate to

1	114 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 interrupt you. But your letter of reference from
2	Mr. Benjamin A. Mack dated July 30th of 2018,
3	states that Bruce and I are volunteer members of
4	the South Carolina Sierra Club Executive Committee.
5	MR. COLE: We were up from mid 2017
6	through 2018.
7	EXAMINATION
8	BY SENATOR ALEXANDER:
9	Q. So and it says he regularly attends
10	meetings and participates in conference calls,
11	pointed questions and thought-provoking discussion
12	matters, so
13	A. I haven't I haven't been involved
14	with the Sierra Club since March 26th, 2018, when I
15	submitted my resignation.
16	Q. So this letter of July 30th of 2018
17	where they're referencing that, you didn't bring
18	that to their attention?
19	A. I didn't, no, I apologize for that.
20	That's an oversight on my part.
21	Q. So you're not a member of the executive
22	committee now and you don't participate
23	A. No.
24	Q because it's using it says: We
25	are volunteer members. It doesn't say have served.

115 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 I just wanted some clarification for the record to have some understanding based on what you had 2 3 mentioned. 4 Α. Senator, I don't know how I can explain it any more clearly, but I think part of the issue 5 is that Mr. Mack is in Charleston and he has a very 6 7 busy schedule. He's a district attorney. And I think I made a lasting impression on him and other 8 board members and other members when I did serve. 9 10 So he was doing this as a courtesy to 11 me and perhaps a perfunctory gesture. But for --12 if there are any inaccuracies in his letter, I'm 13 responsible for that and I apologize. 14 Well, I appreciate the comments you Ο. 15 make, but with that letter you didn't bring it to 16 his attention that it needed to be corrected before 17 you submitted it to the committee? 18 To be honest with you, sir, I haven't Α. 19 even read the letter. 20 Haven't read the letter? Ο. 21 Α. No. 22 But you submitted it as a letter of Ο. 23 reference? 24 Α. I did. 25 SENATOR ALEXANDER: Thank you for the

116 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 clarification. 2 MR. RANKIN: Can I pursue that further --3 4 SENATOR ALEXANDER: Yes, sir. Senator from Horry. 5 6 EXAMINATION 7 BY SENATOR RANKIN: -- and I know your answer will remain 8 the same. But in the letter, Mr. Mack cites that 9 10 you on a monthly basis reconciled the 11 organization's bank statements with OuickBooks, entries made by its paid staff person. You're not 12 13 doing that? 14 No, I haven't --Α. 15 (Attorney Anderson hands copy of letter). 16 MR. COLE: Thank you. 17 BY MR. RANKIN: 18 I'm referring to the second page of 19 that letter, the second line. You're not doing 20 that? 21 As I said, I haven't been involved Α. 22 since March 26th, 2018. And they're well aware of 23 that. And as I say, you know, Mr. Mack, I love him 24 to death, but he's a district attorney and he's 25 very busy. And he was doing this as a courtesy to

117 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 He probably copied what he wrote in my prior appearance for me and didn't bother to change that. 2 But I'm not -- but I'm not going to share any 3 4 blame, it's all on me, I apologize. EXAMINATION 5 BY MR. DAVIDSON: 6 7 Ο. Mr. Cole, following up on the question that was recently asked regarding potential 8 conflicts of interest. Should a conflict of 9 10 interest arise, how would you handle that situation, if elected, while serving on the Public 11 12 Service Commission? 13 I'd do whatever it took to distance 14 myself from that conflict. 15 Are you affiliated with any political Ο. 16 parties, boards or commissions that would need to 17 be re-evaluated if you are nominated and elected? 18 Α. I am not. 19 Do you belong to any organizations that Ο. 20 discriminate based on race, religion or gender? 21 Α. I do not. 22 What is the appropriate demeanor for a Ο. commissioner? 23 To be even-minded. 24 Α. 25 Does that apply only while you're on Ο.

118 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 the bench or do these rules apply seven days a 1 week, 24 hours a day? 2 24/7. 3 Α. 4 Ο. What do you consider to be appropriate use of social media pursuant to the Judicial 5 Cannons? 6 7 Α. I don't think it's appropriate at all. Could you define the term cogeneration? 8 Ο. 9 Cogeneration is when two or more Α. 10 generators are used to generate electricity. 11 Sometimes you have gas -- I'm not an engineer, so 12 I'm going to give it my best shot -- gas generators 13 and when one goes down, the other comes up. 14 Which entity would conduct an Ο. 15 investigation should a complaint be filed against a 16 regulated utility? 17 Probably the ORS. Α. 18 Thank you. Have you made any Ο. 19 contributions to members of the General Assembly 20 since filing your application? 21 Α. I have not. 22 Ο. Since the date that you filed to run 23 for this office, could you please describe any 24 interaction or contact that you've had with any 25 member of the General Assembly?

1	EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 A. To my knowledge, none.
2	Q. Have you sought or received the pledge
3	of any legislator prior to this day?
4	A. No.
5	Q. Have you sought or been offered a
6	conditional pledge of support by any legislator
7	pending the outcome of your screening?
8	A. I have not.
9	Q. Have you asked any third parties to
10	contact members of the General Assembly on your
11	behalf before the final and formal screening report
12	has been released?
13	A. I have not.
14	Q. Are you aware of any friends or
15	colleagues contacting members of the General
16	Assembly on your behalf?
17	A. I am not.
18	Q. Are you familiar with the 48-hour rule,
19	which prohibits a candidate from seeking pledges
20	for 48 hours after the report has been submitted to
21	the General Assembly?
22	A. I am.
23	Q. Do you plan to serve a full term, if
24	elected?
25	A. I do.

120 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 1 MR. DAVIDSON: Mr. Chairman, I note for the record that Mr. Cole scored a 74 on the test. 2 3 I have no further questions at this time. 4 SENATOR ALEXANDER: Thank you so much. Ouestions for Mr. Cole? 5 REPRESENTATIVE SANDIFER: Mr. Chairman. 6 7 SENATOR ALEXANDER: Yes, sir, Representative Sandifer. 8 9 REPRESENTATIVE SANDIFER: Thank you, Mr. Chairman. 10 11 EXAMINATION 12 BY REPRESENTATIVE SANDIFER: 13 Mr. Cole, two or three small questions. Ο. How is the rate for cell service, cellular service 14 15 set? 16 A. Cellular service is a competitive 17 market, so we don't really involve ourselves with 18 setting rates. 19 So that's a phone service that PSC does Ο. 20 not set. All right. How about some other 21 telephone or telephonic types of services? 22 Α. Well, telecommunications is generally 23 deemed as competitive, deregulated, so we usually let the market set the rates there. 24 25 Okay. And then on the question about Ο.

	121 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019
1	someone asking questions about an issue that is or
2	might come before the Commission, you said you
3	would not be at liberty to discuss, and why?
4	A. Because it would be considered as ex
5	parte.
6	Q. Okay. Thank you. And then the
7	question regarding how you would handle yourself if
8	there was an issue that you had personally had an
9	involvement in came before the Commission. How
10	would you handle that one?
11	A. Oh, I would remove myself of it.
12	Q. Recusal?
13	A. Yes, sir.
14	REPRESENTATIVE SANDIFER: Okay. Thank
15	you very much.
16	SENATOR ALEXANDER: Thank you. Other
17	questions? Then pursuant to our previous motion,
18	we'll go into executive session with the candidate,
19	so we'll do that at this time.
20	(Executive Session.)
21	SENATOR ALEXANDER: Okay. The veil has
22	been lifted and there was no action taken in
23	executive session. Do you have any other
24	questions?
25	MR. DAVIDSON: No, sir.

EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 EXAMINATION

BY SENATOR ALEXANDER:

- Q. As we conclude, is your work history outlined fully in the -- in your response on the request form, is that consistent with the one that was provided at the last screening?
- A. I'm not sure, sir. The reason why I say that is that I did have a -- lost some data, so although I asked Mr. Davidson to provide me a copy of my last -- of my most recent PDQ, this is the first time that I'm seeing the whole document. So I have not had an opportunity to compare them, but it should be because -- except for the most recent developments, it should be consistent.
 - Q. What's your most recent development?
- A. Yes. I've been selling property and I've been working with clients, the EHN piece is a recent development. So it should be fairly consistent, yes, sir, except for any small changes that I might have added.

SENATOR ALEXANDER: Any other questions? Hearing none. Thank you for your time this afternoon. We appreciate you being before us today.

MR. COLE: Thank you, Senator



123 EXAMINATION OF BRUCE K. COLE - JANUARY 14, 2019 May I make a closing statement? 1 Alexander. SENATOR ALEXANDER: Yes, sir, a brief 2 closing statement. 3 4 MR. COLE: Thank you, sir. Again, thank you for the opportunity to appear before you 5 today. I just wanted to reiterate that I have 6 7 considerable experience working in businesses of transition, due to either bad management, market 8 shifts, rapid growth and industry mergers. I've 9 10 guided companies through the turmoil of telecommunications industry deregulation during the 11 12 I rode the disruptive wave of emerging 13 technology, such as the Internet and cellular 14 during the 1990s. I studied the causes of 15 corporate failure at Lehman Brothers during the 16 financial crisis. And I'm currently performing 17 research in platform economics with regard to 18 pricing strategies and antitrust issues in healthcare and real estate industries. 19 20 I have served on the boards of 21 municipal utilities, including our local airport 22 Commission and a cable company. And my skills and 23 experience has prepared me for this moment in PSC's

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Thank you, I

history. Thank you very much, sir.

SENATOR ALEXANDER:

124 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 appreciate those comments. Have a good afternoon. 1 We have with us now our next candidate, 2 3 Mr. Elliott F. Elam, Jr. Good afternoon, sir. 4 MR. ELAM: Good afternoon. SENATOR ALEXANDER: And I'll ask that 5 you be sworn in by the court reporter. 6 7 ELLIOTT F. ELAM, JR. being first duly sworn, testified as follows: 8 9 ATTORNEY ANDERSON: Good afternoon, Mr. Elam. 10 THE WITNESS: Good afternoon. 11 12 ATTORNEY ANDERSON: I am going to 13 briefly summarize your educational and work 14 background. Mr. Elam graduated from the University 15 of South Carolina, where he received a bachelor of 16 arts degree in political science, a master's in public administration, and a juris doctorate. 17 18 has served as Public Service Commissioner for the 19 2nd Congressional District since July 1st, 2014. 20 From 1987 until July of 2014, he had 21 served in various capacities with the Department of 22 Consumer Affairs in multiple roles, and we've gone 23 through that before, so I won't name all the 24 various positions. I will point out that from 2002 25 to 2014, he served as deputy consumer advocate and

	125 EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019
1	the consumer advocate.
2	Mr. Elam, do you have any changes that
3	you would like to make to the Personal Data
4	Questionnaire you submitted with your application?
5	MR. ELAM: I do not.
6	ATTORNEY ANDERSON: I would request
7	that Mr. Elam's Personal Data Questionnaire be
8	entered into the record with any confidential
9	information being redacted.
10	SENATOR ALEXANDER: So ordered.
11	(ELAM EXHIBIT 1, South Carolina Public
12	Service Commission edited Personal Data
13	Questionnaire for Elliott F. Elam, Jr., was marked
14	for identification.)
15	ATTORNEY ANDERSON: Before we begin, do
16	you have a brief statement that you'd like to make?
17	MR. ELAM: Just I'm happy to be here
18	again. I do enjoy these talks we have and I'm
19	ready to answer any questions you have. I hope to
20	be able to continue serving in my capacity that I
21	am now.
22	EXAMINATION
23	BY ATTORNEY ANDERSON:
24	Q. Please state your name and home address
25	for the record.

126 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 Elliott Fugua Elam, Jr. Α. Mossborough Drive, Lexington, South Carolina, 2 29073. 3 4 Ο. Are you a registered voter? 5 Α. Yes. And in which Congressional District are 6 Ο. 7 you registered to vote? 8 Α. The 2nd. 9 Ο. Why would you want to continue serving 10 on the Public Service Commission? As I said before, I do -- this is a lot 11 12 of what I've done my entire career. I've been 13 involved in public utility rate cases and 14 administrative cases and insurance rate cases. 15 it's what I've done, it's what I enjoy doing. 16 that I hope to keep doing as a state employee. 17 Can you describe an ordinary workday Ο. 18 for you at the Commission? I would get in and if there is -- just 19 Α. 20 checking whatever you have for e-mail or what's 21 coming up. As far as what the Commission has 22 received, I get the notice every day of whatever has been filed electronically and if I see 23 24 something there, I take a look at it. If there's 25 any hearing coming up, I would read testimony

January 14, 2019 127 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 application or whatever. And if anything else needed to be read as far as educational or 2 whatever, I would do that. 3 4 0. Can you elaborate a little bit more on 5 how you prepare for a hearing? I would generally look at the 6 Α. 7 application, whatever other pleadings there are, pretrial testimony. If there's any motions that 8 have to be dealt with. It's basically a lot of 9 10 reading. 11 Ο. And what type of contact do you have 12 with Commission staff? 13 Daily. I'm living locally, it's a Α. 14 little easier for me, I mean, my commute is ten 15 minutes to the office. So I don't normally require 16 a district office, as it were, but I'm there every 17 day. 18 Generally what role does the PSC serve Ο. 19 in regards to the regulation of utilities? 20 Α. It approves rates. It approves rules 21 and regulations. It issues certificate for people 22 to operate transportation. And if there's any rule 23 changes, anything to do with the operation of 24 utility that requires approval, we do that.

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And what are some of the factors to

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 consider in rate cases?

- A. Well, obviously the rate of return, whatever return a shareholder is going to be allowed to have. Accounting adjustments that may be part of the application or the testimony. Rate design, what group of customers pays what. Very broadly that's what's considered.
- Q. And as a commissioner, what is your obligation in weighing the interests of the public versus an investor-owned utility?
 - A. We weigh those interests equally.
- Q. Transparency is a term that's been used a lot in the media for all forms of government. In what ways could the PSC be more transparent as a governmental entity?
- A. We have in the last year put about every meeting we have is live streamed and I think we're doing very good with that and with our website that if there's anything filed with the Commission, it pretty much goes up on that website. Just trying to educate the public a little bit better about what we do, I think will probably help and make the transparency that's already there a little more understandable.
 - O. And are there any constraints in

January 14, 2019 129 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 transparency for the Commission? Well, I mean, we are bound by the 2 Α. 3 Judicial Code. We are not going to be so 4 transparent that we're discussing what we're 5 thinking about deciding a case before we decide. Т think that just goes with the territory. 6 7 Ο. If you were approached by someone wanting to discuss a matter that is or may become 8 an issue in a proceeding, how would you handle the 9 10 situation? I'd tell them that I'm not able to do 11 Α. 12 that and that they are not able to do that because 13 it's prohibited by law. 14 Do you or a member of your immediate Ο. 15 family have stock or other financial interests that 16 are directly controlled by you or a family member 17 of a utility that is regulated by the PSC? 18 Α. No. 19 If you were re-elected, are there any Ο. 20 potential conflicts of interest? 21 Α. No. 22 Ο. And what would you do if a conflict of 23 interest were to arise? 24 Α. I would report what it is and just

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recuse myself from the case if there purely was.

1	130 EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019 Q. Do you belong to any organizations that
2	discriminate based on race, religion or gender?
3	A. No.
4	Q. Are you familiar with the two advisory
5	opinions issued by the review committee dealing
6	with attendance at legislative receptions, as well
7	as legislative caucus meetings?
8	A. Yes.
9	Q. And have you attended any legislative
10	receptions and/or legislative caucus meetings?
11	A. No.
12	Q. What is the appropriate demeanor for a
13	commissioner?
14	A. Fair and impartial, to be fair and
15	appear fair to all parties. Not get too too
16	excited or too what is the word I'm looking for?
17	Too calm, I guess, just try to be an even keel and
18	maintain a judicial demeanor.
19	Q. And would that apply while you're on
20	the bench or would it apply at all times?
21	A. At all times.
22	Q. What do you consider to be the
23	appropriate use of social media pursuant to the
24	Judicial Cannons?
25	A. I don't use it at all. I think people

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1	EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019 can certainly use it in their personal lives, if
2	they take care not to really get into the issues of
3	politics on social media that would run counter to
4	the Judicial Cannons.
5	Q. Have you attended I'm sorry, I think
6	I just asked you this
7	A. I am signed on at LinkedIn, I never
8	post anything to it.
9	Q. Okay. Have you attended any political
10	gatherings since submitting your application?
11	A. No.
12	Q. Have you sought or received the pledge
13	of any legislator prior to today?
14	A. No.
15	Q. Have you sought or been offered a
16	conditional pledge of support by any legislator
17	pending the outcome of your screening?
18	A. No.
19	Q. Have you asked any third parties to
20	contact members of the General Assembly on your
21	behalf before the final and formal screening report
22	has been released?
23	A. No.
24	Q. Are you aware of any friends or
25	colleagues contacting members of the General

132 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 Assembly on your behalf? 2 Α. No. Are you familiar with the 48-hour rule, 3 Q. 4 which prohibits a candidate from seeking pledges 5 until 48 hours after the report has been submitted to the General Assembly? 6 7 Α. Tam. Since the submission of your 8 9 application to the Commission, can you please 10 describe any contact or interaction you've had with members of the General Assembly? 11 12 I have said hello to anyone that I may 13 I came up here a day last week, just to have seen. 14 -- but there was next to no one here, just to say 15 hello, that I was running. I went to a funeral 16 last summer where I just basically did the same 17 thing, where I just saw folks and said hello. 18 And have you made any contributions to Ο. 19 members of the General Assembly since filing your 20 application? 21 Α. No. 22 Ο. And would you plan to serve a full term 23 if re-elected? 24 Α. Yes. 25 I want to go back a minute to something Ο.

133 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 that you said about public education. Is there a 1 way that the public's voice can be heard during 2 proceedings before the PSC? 3 4 Α. Yes, there is. I mean, we have night hearings where we go to -- both in Columbia and 5 other parts of the state where they're are I think 6 7 fairly well-publicized as much as that or a legislative hearing can be where the public can 8 come and give testimony that is on the record in a 9 10 case whenever we're deciding rate cases. 11 ATTORNEY ANDERSON: And for the record. Mr. Elam made a 91 on his test. 12 Thank you, 13 Mr. Chair, I have no further questions. SENATOR ALEXANDER: 14 Thank you, Ms. Anderson, and members of committee. Senator 15 16 from Orangeburg. 17 EXAMINATION 18 BY SENATOR HUTTO: 19 Thank you for being here today. We, of Ο. 20 all people know you can't -- not you, but none of 21 us can control what people put in the newspaper. 22 Α. I learned that long ago. 23 Right. I'm trying to read what Q. happened earlier today because I know you were at 24 25 the hearing earlier today. And one of the

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 reporters characterized that all seven utility commissioners who were elected by the legislature towed the line laid down by Lucas, a powerful

4 lawmaker at the State House.

And then another article says:

Commissioner Elam argued last time that a prudent ruling was unnecessary since Dominion already had agreed it wouldn't charge its customer for nuclear construction costs.

And then a final report says: Reading largely from a script, Elam agreed with the House Speaker and the Office of Regulatory Staff finally that prudence was needed to restore the public trust.

So regardless of they wrote about it in the paper, what happened between last time and this time and is the public's confidence restored if they believe the Commission is towing the line of the Speaker?

A. What happened, the initial order was decided based on Dominion's agreement to not seek to recover costs put for the plant post March 12th, 2015. And just as a legal matter, we found that the question of whether there was prudence or not was legally moot. We didn't use the word moot, I

135 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 think we kind of avoided it. But that it wasn't 1 relevant in deciding what the money was. 2 economic regulators and that's what we try to stick 3 4 There seemed to be a very loud outcry, it was 5 several parties were all saying that to restore public confidence, you have to call it imprudence. 6 7 And what I said today was our prior -this is directly from the motion -- our prior 8 9 finding wasn't meant to even be an implicit finding 10 of prudence. And if -- if it was required to fully clarify our meaning and our view of SCANA and 11 SCE&G's -- what they did during the course of that 12 13 project, if that requires a formal finding of 14 imprudence, okay. It didn't change where we were 15 on the dollars, but we were just trying to 16 recognize what people seem to feel was a very 17 important distinction. 18 I never thought that, you know, I would 19 call all their actions prudent, but just as a 20 matter of law, it didn't require that to get to the 21 dollars. 22 SENATOR HUTTO: Thank you. SENATOR ALEXANDER: Any other 23 24 questions? 25 EXAMINATION

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 BY SENATOR ALEXANDER:

- Q. The one that I have for you now that you've been on the Commission and having served in your other roles, how has that served you or helped you in your current role as a commissioner, your past experience that you brought to the job?
- A. I litigated cases in front of the PSC for between 15 and 20 years at the Consumer Advocate's office. I think that brought to the Commission, and I've said this before to y'all, just that the viewpoint of someone on the outside looking in as far as how the Commission presents itself, its orders, and to try not get too trapped in an organization. And I think people have referred to captured agencies in political science and I was hoping what I could bring was just being able to open up and let people know in the staff setting that the rest of the regulatory community, when you say that, this is what they think.

I think prior to leaving Consumer

Affairs, I was also a regulator of several

businesses, the consumer affairs licenses, so I

think that experience also helped me prepare for

being a regulator.

SENATOR ALEXANDER: Okay.



137 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 Representative Mack. REPRESENTATIVE MACK: 2 Thank you, 3 Mr. Chairman. 4 EXAMINATION 5 BY REPRESENTATIVE MACK: I wanted to get your thoughts on the 6 O. 7 process with the merger with Dominion and SCANA. And of course, Dominion went very, very full in 8 with those commercials, \$1,000 back, \$1,000 back, 9 10 \$1,000 back, and I knew I used to tell folks that's 11 just like car dealerships telling you, buy a car 12 and we'll give you \$500 and a turkey. But a lot of 13 us are getting calls about that. And of course, 14 there was an explanation as to why they're not 15 going to do it and it's going to be on the back end 16 and long-term, et cetera. What was your thought process and the 17 18 process of some of the commissioners as a result of 19 going so hard in on that promise and then not doing 20 it? 21 I'm going to try to stay -- I mean, the 22 order for reconsideration hasn't been issued yet, 23 so I'm going to try to stay just in what was 24 already there. By the time we got to the end of 25 the hearing, no party was advocating refund

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 That was initial -- the ORS had a real problem with that. They wanted everything to be set out in future rate reductions, other parties wanted that. Some members of the General Assembly had referred to the money upfront as a payday loan, and I don't know that I would go that far, but it was -- the more you got upfront, the less the rates They would have had to have gone up went down. from where the General Assembly was in 2058. And a back-of-the-envelope kind of idea -- and there were hearings that would address this -- customers would in essence pay back the entire refund they got within a very few years and then be stuck with higher rates for a whole lot more years.

Q. Yes, I understand that. That's -- as a matter of fact, I do a radio talk show and I used that example when it first came out that if they did the \$1,000, you'd pay for it a whole lot more down the line.

Having said that, when you go in -- in politics if you have to explain something in detail to folks, it's usually very problematic because in politics, as you know, perception was reality and they went in so hard with this pitch, I mean, the commercials were like every 20 minutes, you know,

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139 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 \$1,000 back, \$1,000 back, \$1,000 back. It was, you 1 know, problematic, I understand the logistics of 2 it, which is what I'm saying, I understood when 3 4 they were saying it --5 Α. Okay. -- but in the future, they should 6 Ο. 7 really, really look at what their marketing technique is. 8 9 REPRESENTATIVE MACK: Okay. 10 SENATOR ALEXANDER: Representative 11 Forrester. 12 REPRESENTATIVE FORRESTER: Thank you. 13 EXAMINATION 14 BY REPRESENTATIVE FORRESTER: 15 Mr. Elam, I'd like to get your O. 16 response, how you would respond to those who are 17 contacting us saying that we need to replace all 18 existing commissioners who were on the Commission 19 at the time of the debacle? For whatever it's worth, I got there at 20 Α. 21 the very end of it. But even before that, there 22 wasn't the indication that there was all the 23 trouble with the project, even at 2015, 2016. ORS had continued to do its work. We didn't know that 24 25 they were lacking information. ORS was

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 recommending approval of its settlements, which the statute was very clear that the Commission should give substantial weight.

We were following the law as it was.

And it was a long-term policy decision of this

General Assembly to go nuclear, I understood that,

and even up to close to the end, it appeared like a

very workable thing to do. It was a very

carbon-free set of power. Going to be -- qualify

for federal tax credits. As far as everybody

that's there, the project just ended up not working

out. I think that if the Commission, even before I

got there, I think if the Commission had tried to

shut down the project, I think there would have

been a lot of complaints of not letting this

project go to its full extent to get it done.

It didn't really -- there wasn't that outcry, the big outcry from even the public until the bankruptcy. There were a lot of inner rate adjustments and people didn't like them, but there wasn't a complete rebellion. It didn't become a debacle until the bankruptcy. I think everybody was trying to get something done in good faith and it didn't work out.

REPRESENTATIVE FORRESTER: Thank you.

1	141 EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019 EXAMINATION
2	BY SENATOR ALEXANDER:
3	Q. Kind of following up on that, how would
4	you describe the level of trust from your
5	perspective at the Commission and at the
6	Commission, given the circumstances?
7	A. My trust of the Commission?
8	Q. No. No. The level of trust at the
9	Commission and of the Commission, from your
10	perspective?
11	A. I think that the Commission, to the
12	extent it can, will believe witnesses that come
13	before it. They swore to tell the truth and we
14	and, you know, there's a lot of shades to the
15	truth, but everybody will put their own spin on it.
16	I think we will still approach our job the way we
17	have, whether we are more cautious about witnesses,
18	maybe so.
19	SENATOR ALEXANDER: Senator from Horry.
20	SENATOR RANKIN: Thank you,
21	Mr. Chairman.
22	EXAMINATION
23	BY SENATOR RANKIN:
24	Q. Mr. Elam, I want to thank you for
25	coming and making it so quickly after making the

In Re: Public Service Commission Screenings 2019 Public Service Commission Screening Hearing 142 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 newspaper a little earlier today, I guess. I just love making the newspaper. Q. As long as they spell your name correctly, in our world -- at least in the Strom Thurmond world that was enough. I used to say that, but I'm not so sure Α. anymore. It is a different day for sure. first want to commend you for two of your letters of endorsement. One from our former Senate staff member Nancy Koons. I think I've got that correct, she sat in the seat that Heather is sitting in today. I worked with Nancy for 20 years. And then the other from, perhaps the Ο. longest, I don't know whether you should grade his letter on content --Α. Yeah, I don't. -- Robert Baulkman, most verbose letter Ο. of recommendation that I've seen. Both giving a kind of a pre and in the weeds view of your service on that Commission. So kudos to you in that realm. But let me ask you this -- and not a

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but, but with a pause here, we have been criticized

here in the General Assembly for what you inherited

	January 14, 2019
1	EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019 in 2014, this law is on the books, you happen to be
2	the guy that gets to vote and be in the middle of
3	the debacle, as it has been called. We were
4	criticized and therefore last year we clearly
5	empowered statutorily empowered the consumer
6	affairs hat to be worn at the Commission in any
7	litigation before the Commission.
8	Did the lack of that clear delineation
9	of a consumer affairs seat at the table prevent
10	you, with your background in consumer affairs, from
11	advocating within the record on behalf of the
12	consumers of the SCANA world at least?
13	A. I'm a little confused of what you're
14	talking about. I mean, there was ORS certainly
15	had removed from it, you know, the duty to look
16	after economic development and financial health
17	Q. Right.
18	A the Commission is still Judicial
19	Code.
20	Q. And based on the facts before you?
21	A. Right.
22	Q. And I understand that. So I'm bleeding
23	in between your role as PSC and role as consumer
24	affairs. In terms of a seat at the table, some

have criticized the decisions that you-all have

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 made in saying that the consumer was left out, that the decisions that y'all made within the four corners of what was presented to you was a great disservice to the consumers. You were hoodwinked, we were all hoodwinked, duped. And if the Commission had done its job differently, we would not have come to the place that we're at today.

Again, fair or unfair criticism, do you understand that context of the question, and forgive me, I murder my questions all the time. With that, do you think that there was anything differently that you could have done with your background as a consumer affairs advocate to prevent what we have before us today?

A. One of the things I was asked when I was running four years ago was: Can you take off your consumer advocate hat and be a judge? And I assured everyone I could and I've done that. Now, what could I have done? Only in 2016 did commissioners start to get a little bit of a hint that there was anything wrong. As far -- there was an ORS witness that said he had some concerns, but ORS settled the case. And the company had its fixed price contract that supposedly set a cap. At the time that looked to me like just sort of the

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 Hail Mary, but it was one that had to be thrown,

that the company had to be able to have its chance to complete that plant because so much was into it.

I don't know what else could have been done. It would have been just as big a disaster to try to shut it down the year before the bankruptcy happened because we would not have given it a chance and there still would have been 5,000 people out of jobs. I put it to one Senator a few months ago that if we would have tried to shut that process down in 2016, he would have hung me and then shot me for good measure and he agreed.

It's the biggest financial knot perhaps that we have faced ever as a Public Service

Commission and there's not a simple way to until it or to make things all better. I think we have made the best of an otherwise bad situation.

Q. Any questions that could have been asked by you as a city commissioner, any tools that you didn't have by law that were not at your disposal -- and again, Monday morning quarterbacking we're doing with a big price tag, but certainly it is what it is -- but is there anything that you felt then going through the process or now that if only we'd had, blank, we

January 14, 2019 146 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 would have avoided --Aside from Bechtel --2 Α. And that's -- I'm headed there. Do you 3 Ο. 4 think that we can all hang our hats, and again, 5 used favorably, not pejoratively, but victimization -- but can we all, and you as 6 7 commissioner, hang your hat that I'm a victim because they acted in bad faith, they withheld, 8 they lied and didn't reveal --9 10 Α. Right. 11 -- is that enough of an out for you as Ο. 12 a commissioner? 13 I don't know whether it is or whether Α. 14 Bechtel by itself would have changed, if the 15 completion dates were as far as out as Bechtel 16 speculated, I am fairly confident that the process 17 would have probably at least paused itself. 18 It's -- it is easy to look back and say, if I would 19 have known that at the time, I would have -- and 20 the best I think I can come up with is I'm not 21 positive what I would have done. But the 22 completion dates that were there I think would have 23 given everyone great pause. That's all. 24 SENATOR RANKIN:

25

Thank you.

SENATOR ALEXANDER:

147 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 Representative Sandifer. REPRESENTATIVE SANDIFER: 2 Thank you, Mr. Chairman. 3 4 EXAMINATION 5 BY REPRESENTATIVE SANDIFER: Mr. Elam, thank you for being here, I 6 Ο. 7 appreciate what you did today. Just a couple of questions. In your earlier testimony you said that 8 you would weigh the interests of the public and the 9 10 utility equally. Do you still subscribe to that in 11 light of the fact that the Commission granted nine 12 different rate increases during this period, do you 13 think that that is weighing the two of them 14 equally? 15 I think in that process, and even if I 16 had my consumer advocate hat on during that 17 process, I don't think I would have been able to 18 say no revised rates ever because --19 That's not the question. The question Q. 20 Nine consecutive rate increases, was it 21 treating the two parties equally? 22 Α. Perhaps not, it was following the law. 23 It was accepting the ORS settlement and with ORS 24 being the supposed eyes and ears of the Commission 25 on the project. I don't know whether that equals

148 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 or not. 1 2 Thank you. Ο. 3 REPRESENTATIVE SANDIFER: Thank you, 4 Chairman. 5 SENATOR ALEXANDER: Is there other questions? 6 7 MR. DAN JONES: Mr. Chairman. EXAMINATION 8 9 BY MR. DAN JONES: The Georgia plant, and I don't expect 10 Q. 11 you to keep up with things in Georgia, but what's 12 the status --13 SENATOR ALEXANDER: Can you use your 14 microphone. 15 MR. DAN JONES: I'm sorry, I'm not used 16 to that. BY MR. DAN JONES: 17 18 Q. -- what's the status of the Georgia 19 plant, was it Vogtle, have you heard anything about 20 their situation --21 I think they're still building. And I 22 don't keep up with it a whole lot, my recollection 23 of the last thing I saw was they were trying to 24 decide how much responsibility for future cost increases would be borne by Southern Company versus 25

149 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 the other owners of the unit that included municipals, co-ops, whatever in Georgia. Southern, 2 I believe, is the minority owner, they have less 3 4 than 50 percent as opposed to the other entities 5 together have more than 50 percent. I don't know that they have reached some accommodation of that, 6 7 but the last I've heard they are plowing ahead. MR. DAN JONES: Thank you. 8 9 SENATOR ALEXANDER: Thank you. Any other questions at this time? 10 11 SENATOR RANKIN: I apologize. Yes, sir, Senator 12 SENATOR ALEXANDER: 13 from Horry. 14 EXAMINATION 15 BY SENATOR RANKIN: 16 I apologize for coming back. Mr. Elam, Ο. in this realm of accountability and your candidacy, 17 18 again, you're an incumbent, you're challenged by a 19 person who was on that Commission in the early 2000s. You're challenged by someone who has worked 20 21 at ORS and then a number of other folks who were 22 not involved. You were asked by Mr. Forester about 23 the sentiment, which I kind of likened to the Jesus 24 and his crucifixion in your own term of hung and

25

shot by the Senator, who you closed by saying if it

EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, were in 2016. People are going to be upset either way, crucify you, hang you, shoot you, throw you out of office, whatever. In terms of your comment about the last four years that you've been on this Commission, and for the record again, this is not the only case, surely, there have been numerous others, but none of which has captured the state and the nation's attention as much as this.

Give me a commentary about the workings of the Commission itself, is it a smart body? Is it equipped? Does it need further tools? Does it need something by the General Assembly? What does it need to do better and can we avoid this, will we avoid this very situation again, whether you're on the Commission itself or someone else is 10, 20, 30 years from now?

A. I think the Commission itself does need more resources for advisory staff, certainly from a standpoint of succession of staff, we've had a pretty old staff and they're starting to retire and we need to be able to replace folks or either have new folks onboard before people retire, so you can have some continuity of agency memory.

I think it is good that the General
Assembly has reinstituted the Consumer Advocate's

1	151 EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019 Office. I think that is while I may have been
2	the equivalent of a gnat in all those years, I'd
3	like to think that at least made some people think
4	about things that they might not have otherwise.
5	I'm glad y'all have done that. I have not seen
6	them intervene in a case, I'm not sure why they
7	haven't done that since last July.
8	But I am glad that you have done that,
9	fund them sufficiently and it's good to have
10	disagreements. It's good to have competing points
11	of view to hear.
12	SENATOR ALEXANDER: Any other
13	questions? If not by previous motion, we'll go in
14	executive session with the candidate staying put
15	and we'll excuse every one else.
16	(Executive session.)
17	SENATOR ALEXANDER: We've lifted the
18	veil and there was no action take in executive
19	session. Are there any further questions from
20	members of the committee, Review Committee?
21	Hearing none, we appreciate your time in being here
22	with us this afternoon and being responsive to our
23	questions.
24	MR. ELAM: Thank you, Mr. Chairman.
25	SENATOR ALEXANDER: At this time that

152 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 completes the screening of the candidates. 1 entertain a motion that we go into executive 2 3 session to discuss the potential employment 4 pursuant to Section 30-4-70(a)(1). REPRESENTATIVE SANDIFER: So moved, 5 Mr. Chairman. 6 7 SENATOR HUTTO: Second. SENATOR ALEXANDER: Any discussion on 8 the motion? Hearing none, we'll go directly to a 9 vote. All in favor of that, please say aye. 10 11 (Unanimous aye vote). 12 SENATOR ALEXANDER: Any opposed? The record will reflect that it was a unanimous vote. 13 So we'll go into executive session for that sole 14 15 purpose. 16 (Executive session.) SENATOR ALEXANDER: Okay. The veil has 17 18 been lifted and no action was taken in Executive 19 Session. We'll continue the screening -- or the 20 meeting where we have considered the screening of 21 the various candidates for this position. 22 will be two separate items to come before the committee for consideration. One is the 23 24 qualifications of a candidate. Second would be 25 nominations for the candidates to go forward.

	153 EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019
1	So I'm going to call out each member
2	each of the candidates that was screened today and
3	we'll ask and then I'll ask the question.
4	Mr. James Buddy Atkins, question is: Is he
5	qualified? And I ask for a show of hands on each
6	one of the unanimous as being qualified.
7	Ms. Florence the next candidate is
8	Ms. Florence Belser for the consideration of
9	qualified? Deemed qualified and proxy,
10	Mr. Forester.
11	REPRESENTATIVE FORRESTER: Mr. Sandifer
12	votes yes.
13	SENATOR ALEXANDER: Patricia P. Carson
14	question of qualified? No response. Not receiving
15	appropriate number of votes is not qualified.
16	Mr. Bruce K. Cole, question before us is qualified?
17	Not receiving appropriate number of votes, not
18	found qualified including proxy.
19	Mr. Elliott F. Elam, Jr., as
20	qualification as qualified. Having received the
21	appropriate number of votes he's found qualified.
22	REPRESENTATIVE FORRESTER: Mr. Sandifer
23	abstains on Mr. Elam.
24	SENATOR ALEXANDER: Mr. Sandifer
25	abstains on Mr. Elam.

154 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 1 So now we will proceed to nominations from this committee to go forward and I will poll 2 the members from that standpoint and I will start 3 4 with Mr. Simmons. MR. SIMMONS: I would vote to nominate 5 Ms. Belser and Mr. Elam. 6 7 SENATOR ALEXANDER: Mr. Simmons votes to nominate Ms. Belser and Mr. Elam. 8 9 Representative Mack? 10 REPRESENTATIVE MACK: Mr. Atkins, 11 Ms. Belser, and Mr. Elam. SENATOR ALEXANDER: Mr. Mack votes for 12 Mr. Atkins, Ms. Belser, and Mr. Elam. 13 Mr. Forrester? 14 15 REPRESENTATIVE FORRESTER: Ms. Belser 16 and Mr. Elam. 17 SENATOR ALEXANDER: Mr. Forrester, 18 Ms. Belser and Mr. Elam. At this time, we'll take 19 the proxy on Mr. Sandifer. 20 REPRESENTATIVE FORRESTER: Ms. Belser. 21 SENATOR ALEXANDER: Mr. Sandifer 22 nominates Ms. Belser. I'll start to my far left, 23 Mr. Jones? 24 MR. DAN JONES: Ms. Belser and Mr. Elam. 25

	155 EXAMINATION OF ELLIOTT F. ELAM, JR JANUARY 14, 2019
1	SENATOR ALEXANDER: Mr. Jones is
2	Ms. Belser and Mr. Elam. Senator from Orangeburg?
3	SENATOR HUTTO: Atkins, Belser, and
4	Elam.
5	SENATOR ALEXANDER: Senator Hutto,
6	Mr. Atkins, Ms. Belser, and Mr. Elam. Senator from
7	Horry?
8	SENATOR RANKIN: Ms. Belser and
9	Mr. Elam.
10	SENATOR ALEXANDER: Senator from Horry
11	on nominations is Ms. Belser and Mr. Elam. The
12	chair, Mr. Alexander, nominations votes for
13	Ms. Belser and Mr. Elam.
14	Based on the votes, the tally,
15	Ms. Belser and Mr. Elam have been found qualified
16	and nominated by this committee to go forth. Is
17	there any other business to come before the
18	committee?
19	SENATOR HUTTO: Mr. Chairman, do we
20	have to make any decisions regarding the timetable
21	of the release of the report for the elections or
22	anything like that, or recommendations or is that
23	something that we'll just be told?
24	SENATOR ALEXANDER: We will have staff
25	try to get the questions regarding the report and

156 EXAMINATION OF ELLIOTT F. ELAM, JR. - JANUARY 14, 2019 the election. It would be the intent to get the 1 report out as quickly as possible and then I'm sure 2 the staff will be in contact with the various 3 4 candidates as to when the appropriate -- that is 5 provided and it would be the envision of the election being held, I guess February 6th, in 6 7 consultation with the other elections. SENATOR HUTTO: That's what I was going 8 9 to ask is we could coordinate it with -- well, I don't -- with the universities or judges or 10 11 whatever else. SENATOR ALEXANDER: I think that would 12 13 be the desire of all members probably, to the 14 members of General Assembly to have one General 15 Assembly, joint General Assembly to address that. 16 So that resolution should be put -- should be introduced tomorrow. Any other business to come 17 18 before the committee this afternoon? Hearing none, 19 then I would entertain a motion to adjourn. 20 MR. DAN JONES: Motion. 21 SENATOR ALEXANDER: Thank each and 22 every one of you for your attendance and your work 23 today. And thanks to all the candidates for your 24 willingness to serve. 25 (The screening was concluded at 4:10 PM.)

CERTIFICATE OF REPORTER

I, Amy R. Cope, Court Reporter and

Notary Public for the State of South Carolina at

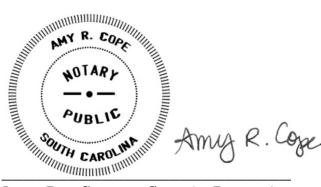
Large, do hereby certify that the foregoing

transcript is a true, accurate, and complete

record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 16th day of January, 2019 at Columbia, Richland County, South Carolina.



Amy R. Cope, Court Reporter My Commission expires June 14, 2028

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