

MAINE STATE LEGISLATURE

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State Employees Conflict of Interest

June 18, 1976

Howard Cunningham, Secretary

Public Utilities Commission

Donald G. Alexander, Deputy

Attorney General

Opinion regarding potential conflict of interest of Donald T. Cloke

This responds to your memorandum of June 16, 1976, in which you request an opinion as to whether there is any reason, conflict of interest or otherwise, why the Public Utilities Commission cannot enter into a contract with Donald Cloke for the provision of expert consulting services?

The facts are basically as stated in your opinion request. However, we would make one important addition. It is our understanding from a telephone conversation with Thomas Gibbon, Esquire, of your staff that Mr. Cloke has no continuing financial interest in the Bangor Hydro Electric Company which could be effected by the actions of the P.U.C., the only funds being received by Mr. Cloke are retirement funds, the rights to which have vested in Mr. Cloke and which are not subject to change according to the level of earnings of the Bangor Hydro Electric Company. In summary, the expert consulting services for which the Commission would contract with Mr. Cloke are in connection with hearings on Bangor Hydro Electric's requested rate increase. Mr. Cloke is a former Vice-President of Bangor Hydro Electric Company who terminated his association with that company as of April 6, 1976.

With the facts you stated and this additional fact, it is our view that from the point of view of the State of Maine there is no conflict of interest or other problem which would prevent the P.U.C. from entering into a contract with Mr. Cloke for the provision of expert consulting services. Mr. Cloke has no financial interest which can be effected by the advice he gives to the P.U.C. or by the decisions which the Commission makes based on that advice and other appropriate evidence. Nor does there appear to be any potential conflict under the law from future fact situations which would arise based on Mr. Cloke's current status because of his lack of any interest in the Bangor Hydro Election Company other than retirement funds.

We recognize that Bangor Hydro Electric may have concerns regarding matters within Mr. Cloke's knowledge which they may not wish to be divulged. However, these concerns would be matters to be resolved between Mr. Cloke and Bangor Hydro Electric Company. They in no way effect the State's ability to enter into a contract with Mr. Cloke or the ability of Mr. Cloke to agree to that contract without a conflict of interest.

Howard Cunningham
June 18, 1976
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We express no opinion on the policy implications of the proposed agreement, only its legality.

DONALD G. ALEXANDER
Deputy Attorney General

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