



Minutes of the August 23, 2021 Meeting of the
Commission on Governmental Ethics and Election Practices
45 Memorial Circle, Augusta, Maine

Present: William A. Lee III, Esq., Chair; David R. Hastings, Esq.; Dennis R. Marble; and William J. Schneider, Esq. Sarah LeClaire, Esq. participated via Zoom.

Staff: Jonathan Wayne, Executive Director; Jonathan R. Bolton, Assistant Attorney General; and Michael Dunn, Political Committee and Lobbyist Registrar

Commissioner Lee convened the meeting at 10:05 a.m. The meeting was livestreamed via YouTube.

The Commission considered the following items:

1. Ratification of the July 30, 2021 Meeting Minutes

Mr. Lee moved to adopt the minutes sent via email on August 20, 2021. Mr. Hastings seconded the motion. Motion passed 5-0.

2. Late Notices by Mainers for Local Power PAC to Major Contributors

Mr. Wayne said as of January 15, 2021 Mainers for Local Power (MLP) PAC had received over \$100,000 from Calpine Corporation; and as of February 12, 2021, had reported receiving over \$100,000 from Vistra Corp. The Commission staff made a preliminary finding that the PAC should have sent notices to Calpine by January 20, 2021 and to Vistra by February 17, 2021 advising them of the major contributor reporting requirements. The preliminary penalties for these violations total \$27,298.20. He said the PAC was not contesting the violation, only the amount of the penalty. Mr. Wayne stated that the staff agreed with an argument received from the PAC that it was not required to send a notice of major contributor reporting requirements to Vistra Corp. That is because the PAC recently learned that it had overstated the amount of contributions from Vistra Corp. in the January-February 2021 time-period. The PAC presumed that Calpine and Vistra had evenly split their contributions to the PAC. In fact, Vistra had contributed a smaller share and its actual contribution was smaller than the amount initially reported by the PAC. The Commission agreed to let its staff withdraw the preliminary finding that the PAC was late in sending the major contributor notice to Vistra Corp.

The Commissioners reviewed the PAC's request for penalty reduction, which was based on the amount of Calpine's contribution to the PAC. The Commission agreed with the penalty reduction proposed by staff due to the significant harm to the public by the report being filed 135 days late.

Mr. Lee moved to find that MLP violated 21-A M.R.S. § 1060-A(2) by failing to provide notice to Calpine Corporation and impose a penalty of \$2,500. Mr. Hastings seconded the motion. Motion passed 5-0.

Mr. Lee moved to find that MLP did not violate 21-A M.R.S. § 1060-A(2) by not providing notice to Vistra. Mr. Schneider seconded the motion. Motion withdrawn.

3. Proposed Legislation

Mr. Wayne indicated the deadline for submission of proposed legislation for agencies was the third week of September. The Commissioners reviewed and had no concerns with the staff's proposed changes to 21-A M.R.S. § 1060-A(1)(B).

After discussing the proposed change to 21-A M.R.S. § 1060-A(4)(E), Mr. Lee moved to replace the proposed language with: "A major contributor may request a modification to this disclosure requirement. In considering a request, the Commission shall consider, among other things, financial and staffing resources" Mr. Schneider seconded the motion. Motion passed 5-0.

Mr. Lee moved to accept the proposed legislative change to 21-A M.R.S. § 1060-A(5-A). Mr. Marble seconded the motion. Motion passed 5-0.

Mr. Lee moved to recommend the legislative change to 21-A M.R.S. § 1060-A(1)(B) to add the words "or a committee" in the first line of (B) as proposed by the Ethics Commission staff on page one of agenda item 3. Mr. Schneider seconded the motion. Motion passed 5-0.

4. Discussion of Enhanced Compliance Reviews of Leadership PACs

The Commissioners agreed to continue enhanced compliance reviews of PACs. They discussed expanding the reviews to the State parties and caucus PACs. They also discussed whether staff had the time and resources necessary to conduct reviews of the four caucus PACs and 10-15 leadership PACs during the off year of an election cycle. It was agreed that the Commission staff will review the feasibility of conducting enhanced reviews of the four caucus PACs and enhanced reviews of leadership PACs and report back with a proposed process at a future Commission meeting.

Adjournment

Mr. Lee moved, seconded by Mr. Schneider, to adjourn. The motion passed. The meeting adjourned at 12:05 p.m.

Respectfully submitted,
/s/ Jonathan Wayne
Jonathan Wayne, Executive Director