

United States Senate

WASHINGTON, DC 20510

November 4, 2019

The Honorable Teri L. Donaldson
Inspector General
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, DC 20585

The Honorable Emory Rounds
Director
U.S. Office of Government Ethics
1201 New York Avenue, NW, Suite 500
Washington DC 20005

Dear Inspector General Donaldson and Director Rounds:

I write to express my concerns regarding the Federal Energy Regulatory Commission's (FERC) ethics program.

Recently issues have been raised related to inconsistent and inaccurate ethics advice provided by FERC's Office of General Counsel regarding recusal obligations, waivers requirements, and implementation of the Administration's ethics pledge. To ensure that decisions are free from conflicts of interest and are made in the public interest, federal ethics requirements generally obligate federal officials to recuse from matters involving former employers and clients for a period of time and seek waivers only in limited circumstances.

It appears, however, that at least one commissioner was provided deficient ethics advice that, because of the seriousness with which he took his ethical obligations, ultimately forced him to abruptly recuse and cease work on certain proceedings. Another commissioner sought a waiver of his obligations under the pledge, weakening his initial contractual ethics commitments.

These circumstances have led to serious consequences – leaving FERC in some instances without a quorum to complete its work. This lack of quorum has resulted in delays to important energy projects as companies and consumers wait for approvals, and uncertainty has increased as previous decisions may now be subject to legal challenge. The potential for ethical lapses may also erode the public's confidence in the integrity of a critical regulatory agency.

In addition, these concerns are heightened because these deficiencies occurred within an ethics program overseen by Chairman Neil Chatterjee and within the office managed by General Counsel James Danly, who was nominated by the President to serve as a commissioner. As part of the Senate's constitutional advice and consent responsibilities, it is important to understand how Mr. Danly's role in FERC's ethics program and implementation of the Administration's ethics pledge may impact his suitability for confirmation.

Accordingly, I ask that the Inspector General of Department of Energy, which has jurisdiction over FERC, investigate the provision of inconsistent and inaccurate ethics advice by FERC's Office of General Counsel and the enforcement of the ethics pledge. I also ask that the Office of Government Ethics, which has oversight of executive branch ethics programs, review FERC's

ethics program to ensure its compliance with federal ethics requirements, including enforcement of the ethics pledge and the appropriateness of past waivers. Finally, I request that you expeditiously provide the findings of your reviews to Congress so that the Senate may use this information to evaluate Mr. Danly's nomination. Please also confirm with my office once you have initiated these reviews and provide an estimated timeline for completion.

Thank you for your attention to this important matter and help ensuring that public service remains a public trust.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Schumer". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charles E. Schumer
U.S. Senator