



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

August 19, 2026

Jake McDermott
Director of Energy Market Policy
Terra-Gen Operating Company, LLC
257 Vernon St, Apt 205
Oakland, CA, 94610

Re: Your Request for Advice
Our File No. A-26-080

Dear Mr. McDermott:

This letter responds to your request for advice regarding the post-governmental employment provisions of the Political Reform Act (the “Act”).¹ Please note that we are only providing advice under the post-governmental employment provisions of the Act, and not the application, if any, under other post-governmental employment laws, such as Public Contract Code Section 10411.

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Do the Act’s post-governmental employment provisions prohibit you from participating in the California Public Utility Commission (the “CPUC”) Rulemaking, R.20-05-003, related to the Reliable and Clean Power Procurement Plan (the “Plan”) on behalf of Terra-Gen Operating Company, LLC (“Terra-Gen”), due to your prior advocacy efforts on other aspects of R.20-05-003 as an employee in the CPUC’s Public Advocates Office?

CONCLUSION

No, based on the facts provided, you are not generally prohibited from advising or assisting Terra-Gen related to the Plan in CPUC R.20-05-003. Under the Act’s post-governmental employment provisions, the permanent ban applies only to particular proceedings involving specific parties. Provided the rulemaking proceeding is generally applicable, the

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

permanent ban does not apply. Additionally, the one-year ban no longer applies to appearances or communications you make before the CPUC because more than one year has passed since you were employed at the CPUC.

FACTS AS PRESENTED BY REQUESTER

You currently work for Terra-Gen as Director of Energy Market. You have broad coverage over California regulatory and market policy. Primarily, you work on issues before the CPUC and the California Independent System Operator (“CAISO”). Your duties include reviewing filings, providing internal commercial guidance, and conducting external advocacy (meetings, drafting and submitting materials, etc.).

Your state employment ended in January 2026. From November 2024 to January 2026, you worked at the California Energy Commission (the “CEC”). At the CEC, your title was “Western Interconnection Lead,” and you filed a Statement of Economic Interest in this position. Your position was under the general direction of the Program and Project Supervisor. You independently led and conducted difficult and complex engineering, economic, and policy analyses related to electric reliability, electricity system markets, electric transmission, electric generation technologies and performance, and electricity system operations. Your work provided decisionmakers and the public with timely, useful information and objective analyses of electricity systems, markets, and issues throughout the Western Interconnection and California’s electric system reliability. You directly supported commissioners and advisors, assisted in analyzing strategies and options for transitioning California’s electricity system to achieve the State’s clean electricity and economy-wide decarbonization goals, and worked with management to implement them. As a subject-matter expert, you consulted on the feasibility, impact, and potential of a variety of operations, projects, and proposals throughout the Western Interconnection.

From May 2019 to November 2024, you worked for the CPUC. The CPUC is a constitutionally created commission whose members are appointed by the governor and approved by the California State Senate.² The CPUC’s personnel and operations are directed by the CPUC President.³ You worked in the Public Advocates Office (the “Office”) from May 2019 to November 2022, and you were an advisor to CPUC Commissioner John Reynolds from November 2022 to November 2024. In your position in the Office and as an advisor to Commissioner Reynolds, you were required to file a Statement of Economic Interest.

The Office is an independent office within the CPUC that functions as a publicly funded consumer advocate. It conducts analyses and participates in formal proceedings before the CPUC, including filing expert testimony, comments, and briefings. The Office maintains separate legal staff, analysts, management structure, and a separate director from the rest of the CPUC. Due to the Office’s participation in formal proceedings, communications between the Office and decisionmakers (i.e., Commissioners, Advisors, and Administrative Law Judges

² California Constitution Art. XII.

³ California Public Utilities Code §305.

(“ALJ”s) are treated the same as though the Office were an external stakeholder. Communications between the Office and decisionmakers are subject to any applicable ex parte rules governing external communications. The Office possesses no sensitive information about internal CPUC deliberations. You were a Public Utilities Regulatory Analyst IV on the Climate Change Initiatives Team at the Office. As a lead analyst, you were assigned to different proceedings and were responsible for leading the review and analysis of a variety of utility filings (e.g., applications, advice letters), writing substantive feedback (including testimony and comments), and participating in workshops. When assigned as the project lead for a docket, you would assign specific tasks to a junior analyst and review their work products.

Specifically, you have asked about the Act’s application to your participation in Rulemaking R.20-02-003. This is a large rulemaking opened in 2020 to continue the Commission’s work on Integrated Resource Planning (“IRP”). There is a successor IRP docket (R.25-06-019) that opened after your departure from the CPUC, but R.20-05-003 remains open to dispose of a few remaining issues. One of those issues is the Plan. The Staff Options Paper on the Plan described various ways in which load-serving entities could be required to procure the resources necessary to meet their share of total system reliability and clean energy needs over the medium- to long-term. It also describes potential compliance and enforcement approaches.

Your name appeared on comments filed in 2021 within R.20-05-003, but those comments were not in response to any topic related to the Plan, which was introduced into the record of R.20-05-003 in September 2022. You did not work on or review any staff work related to the Plan while you were at the Office. When you worked as an advisor for CPUC Commissioner John Reynolds from November 2022 to November 2024, you were prohibited from participating in any proceedings you worked on while at the Office, including R.20-05-003 in its entirety.

ANALYSIS

The Act

Public officials who leave state service are subject to two types of post-governmental employment provisions under the Act: the one-year ban and the permanent ban. These provisions are commonly referred to as the “revolving door” prohibitions.

The One-Year Ban

The “one-year ban” prohibits a former state employee from making, for compensation, any formal or informal appearance, or making any oral or written communication, before the official’s former agency for the purpose of influencing any administrative or legislative actions or any discretionary act involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. (Section 87406; Regulation 18746.1.)

A former official is subject to the one-year ban if they are designated in their agency’s conflict of interest code or if the official should be designated in their agency’s conflict of interest code because the official makes or participates in making governmental decisions that

may foreseeably have a material effect on any financial interest. (Sections 87302(a), 87406(d)(1); Regulation 18746.1(a)(4).) In your position at the CEC, you filed a Statement of Economic Interest and supported commissioners and advisors; assisted in analyzing strategies and options; consulted on operations, projects, and proposals; and worked with management to implement strategies. You participated in making decisions that may foreseeably have an effect on financial interests, and you are subject to the one-year ban.

The ban applies for 12 months from the date the employee permanently leaves a state office or employment. The one-year ban applies only when a former employee or official is being compensated for his or her appearances or communications before his or her former agency on behalf of any person as an agent, attorney, or representative of that person. (Regulation 18746.1(b)(3) and (4).)

In contrast to the permanent ban, which only applies to certain matters involving specific parties such as “judicial or quasi-judicial” proceedings, the one-year ban applies to any appearance or communication made to influence a “legislative or administrative action, or any discretionary action involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.” (Regulation 18746.1(b)(5)(C).) An appearance or communication is for the “purpose of influencing” if it is made for the “principal purpose of supporting, promoting, influencing, modifying, opposing, delaying, or advancing the action or proceeding.” (Regulation 18746.2.) An appearance or communication includes, but is not limited to, conversing by telephone or in person, corresponding in writing or by electronic transmission, attending a meeting, and delivering or sending any communication. (Regulation 18746.2(a).)

Finally, appearances and communications are prohibited under the one-year ban if they are (1) before a state agency that the public official worked for or represented, (2) before a state agency “whose budget, personnel, and other operations” are subject to the control of a state agency the public official worked for or represented, or (3) before any state agency subject to the direction and control of the Governor, if the official was a designated employee of the Governor’s office during the twelve months before leaving a state office or employment. (Regulation 18746.1(b)(6)(C).)

The one-year ban prohibits you from appearing before or communicating with the CEC until January 2027, 12 months after you have left your employment. The one-year ban also prohibits you from communicating or appearing before any agency whose budget, personnel, or other operations are under the control of the CEC. The CPUC is a constitutionally created commission whose personnel and operations are controlled by the CPUC’s president. The facts do not indicate that the CPUC’s budget, personnel, or other operations are directed or controlled by the CEC. Thus, the one-year ban does not apply to communications or appearances you may make before the CPUC because more than one year has passed since the end of your employment with the CPUC, and it is not under the direction and control of the CEC. However, the permanent ban, as discussed below, may still prohibit communications and appearances related to certain proceedings involving specific parties you participated in at the CPUC.

The Permanent Ban

The “permanent ban” prohibits a former state employee from “switching sides” and participating or assisting, for compensation, in certain proceedings involving the State of California and other specific parties if the proceeding is one in which the former state employee participated while employed by the State. (Sections 87401 and 87402; Regulation 18741.1.) The permanent ban applies when an official has permanently left or taken a leave of absence from any state office or employment. (Regulation 18741.1(a)(1).)

The permanent ban applies to every “state administrative official,” which is defined as “every member, officer, employee, or consultant of a state administrative agency who as part of that person’s official responsibilities, engages in any judicial, quasi-judicial, or other proceeding in other than a purely clerical, secretarial, or ministerial capacity.” (Section 87400(b).) “Judicial, quasi-judicial, or other proceeding” means:

any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties in any court or state administrative agency, including, but not limited to, any proceeding governed by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.

(Section 87400(c).)

The permanent ban does not apply to rules or policies of general applicability, including rulemaking proceedings of general applicability. It does apply to proceedings that affect the rights or claims of a specific party or parties. (*Lowry* Advice Letter, No. I-08-053.) Thus, we have previously advised that the permanent ban may apply to components of rulemaking proceedings that involve specific parties. (*Adeyeye* Advice Letter, No. A-20-027.)

You were required to file Statements of Economic Interest as a Public Utility Regulatory Analyst for the Office and as an advisor to CPUC Commissioner Reynolds. The facts indicate you engaged in CPUC proceedings in more than a clerical, secretarial, or ministerial capacity in both positions. Therefore, the permanent ban applies to you and generally prohibits you from participating or even assisting your current employer, Terra-Gen, in proceedings involving the State of California and other specific parties if you previously participated in the proceeding while employed by the State. While we note that the application of the permanent ban must be considered prior to your involvement in any proceedings before the CPUC or CEC, you have limited this inquiry to the application of the permanent ban to CPUC R.20-05-003. Therefore, we do not further analyze the application of the permanent ban to any other proceedings involving the CPUC or CEC. Should you have questions about the application of the permanent ban to a specific proceeding in the future, you should seek additional advice.

The purpose of R.20-05-003 is to continue integrated resource planning, and the Plan specifically addresses how load-serving entities can procure the resources needed to meet their share of total system reliability and clean energy needs, as well as potential compliance and enforcement approaches. The permanent ban would not apply to R.20-03-005, or its component proceedings, including the Plan, that make rules or policies of general applicability. You provided comments on aspects of R.20-05-003 when you worked at the Office, but you did not

participate in or oversee any work related to the Plan. You were prohibited from working on R.20-03-005 in its entirety when you advised CPUC Commissioner Reynolds.

Based upon the facts provided, R.20-03-005 is generally applicable, and there is no indication that you worked on any decisions specific to Terra-Gen, including any component of R.20-03-005. Accordingly, the permanent ban does not generally prohibit you from participating in aspects of R.20-05-003 related to the Plan on behalf of Terra-Gen. However, we caution that the permanent ban may apply to a component of the rulemaking proceeding if the component was specific to Terra-Gen, and you had previously participated in the component. Thus, if you were involved in decisions specific to Terra-Gen, and not generally applicable to the regulatory community, including but not limited to any component of R.20-05-003, you should seek further advice identifying the specific decision and your past involvement in the decision.

If you have other questions on this matter, please contact me at mroeckl-navazio@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Margaret L. Roeckl-Navazio

By: Margaret L. Roeckl-Navazio
Counsel, Legal Division

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