

THE STATE OF NEW HAMPSHIRE

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May 10, 2011

Re: DT 11-024, Union Telephone Company
Petition for Alternative Regulation
Disclosure



To the Parties:

My son, Thomas B. Getz, Jr., joined Primmer Piper Eggleston & Cramer, Union Telephone Company's law firm, at the beginning of April, 2011, and is working as an associate in its litigation department. So far as I know relying upon the filings in this case, my son is not acting in a legal capacity in the representation of Union Telephone Company. Based on the following analysis, I have concluded that my disqualification from this proceeding is not required under the circumstances; however, parties are invited to file an objection or make other comment by the close of business on May 12, 2011.

RSA 363:12, VII, requires that a commissioner: "Disqualify himself from proceedings in which his impartiality might be reasonably questioned."

RSA 363:19 states: "No commissioner shall sit upon the hearing of any questions which the commissioner is to decide in a judicial capacity who would be disqualified for any cause...to act as a juror upon the trial of the same matter in an action of law."

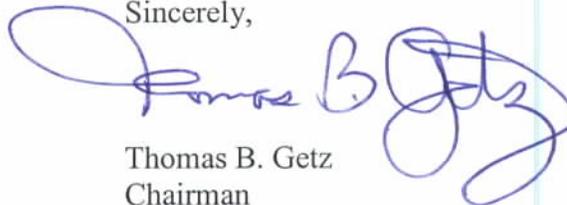
RSA 500-A:12, II states that if a "juror is not indifferent, he shall be set aside" in a trial. Subsection I of the statute provides that a juror may be required to answer whether he:

- (a) Expects to gain or lose upon the disposition of the case;
- (b) Is related to either party;
- (c) Has advised or assisted either party;
- (d) Has directly or indirectly given his opinion or has formed an opinion;
- (e) Is employed by or employs any party in the case;
- (f) Is prejudiced to any degree regarding the case; or
- (g) Employs any of the counsel appearing in the case in any action then pending in the court.

I do not expect to gain or lose from the disposition of this case therefore I am indifferent in that regard to the outcome of the proceeding. Furthermore, assuming that my son is not acting in a legal capacity on behalf of the Company, his relationship to the proceeding would appear to be so attenuated as to not reasonably call my impartiality into question. On the other hand, if my son were acting in a legal capacity relative to this proceeding, which is a circumstance that counsel for the Company should divulge, then I would not participate in this proceeding because I believe that my impartiality might then be reasonably questioned.

In addition, an analysis of the New Hampshire Code of Judicial Conduct, Rule 38 of the Rules of the Supreme Court of New Hampshire, Canon 2, Rule 2.11, Disqualification, yields a similar result. Rule 2.11 (A) requires that a judge disqualify himself or herself if the judge's impartiality might reasonably be questioned. A specific example of a circumstance requiring disqualification, set forth in subsection (2) (b), is when the judge's spouse, domestic partner or a person within the third degree of relationship is acting as a lawyer in the proceeding. Comment 4 to the rule states: "The fact that a lawyer in the proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not itself disqualify the judge. If, however, the judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A) (2) (c), the judge's disqualification is required." Insofar as my son is not acting as a lawyer in this proceeding, and he does not have an interest in his law firm that could be substantially affected by the proceeding, my disqualification is not required.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas B. Getz". The signature is stylized with large loops and a prominent flourish at the end.

Thomas B. Getz
Chairman