

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Motion to Open a Rulemaking on REG ) Agenda Document No. 15-60-A  
2014-09 in Response to Public Comment )

CERTIFICATION

I, Shawn Woodhead Werth, recording secretary for the Federal Election Commission open meeting on November 10, 2015, do hereby certify that the Commission failed by a vote of 3-3 to take the following action:

**WHEREAS** on November 18, 2014 Public Citizen submitted a petition requesting that the Commission clarify how its rules regarding the ban on federal contractor contributions apply to entities of the same corporate family;

**WHEREAS** the Commission received approximately 19,750 comments on the Notice of Availability published in the Federal Register on March 30, 2015;

**WHEREAS** all but two of those comments supported the petition and urged the Commission to open a rulemaking to clarify its federal contractor rules as requested by the petition;

**WHEREAS** the Connecticut State Elections Enforcement Commission and the New York City Campaign Finance Board submitted comments describing how their government contractor regulations apply to entities from the same corporate family;

**WHEREAS** the U.S. Court of Appeals for the District of Columbia Circuit, in an en banc decision, recently rejected a constitutional challenge to the federal contractor ban and held that “our national experience supports Congress’ fear that political contributions by government contractors can corrupt and interfere with merit-based administration” of government, *Wagner v. FEC*, 793 F.3d 1, 21 (D.C. Cir. 2015);

The Commission open a rulemaking and that the Office of General Counsel draft a Notice of Proposed Rulemaking that proposes to revise 11 C.F.R. Part 115 and seeks public comment as to whether the rule should be amended as recommended in the petition filed by Public Citizen or whether the Commission should adopt another method, such as the methods used by the Connecticut State Elections Enforcement Commission or the New York City Campaign Finance Board.

Commissioners Ravel, Walther, and Weintraub voted affirmatively for the motion.

Commissioners Goodman, Hunter, and Petersen dissented.

Attest:

November 13, 2015  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission