

Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001

Scott S. Harris
Clerk of the Court
(202) 479-3011

October 15, 2015

Mr. Carter G. Phillips
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005

Re: Federal Energy Regulatory Commission
v. Electric Power Supply Association, et al.
No. 14-840, et al.

Dear Mr. Phillips:

I am writing to inform the parties that Justice Breyer has learned that EnergyConnect, Inc., a party in FERC v. Electric Power Supply Ass'n, No. 14-840, is owned by Johnson Controls, Inc., and that Mrs. Breyer owned 750 Johnson Controls, Inc. shares (which she has now sold). The ordinary conflict-check conducted in Justice Breyer's Chambers inadvertently failed to find this potential conflict.

The canons of ethics provide that "if a judge . . . would be disqualified because of a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the judge (or the judge's spouse or minor child) divests the interest that provides the grounds for the disqualification." Code of Conduct for U. S. Judges, Canon 3C(4). Justice Breyer's wife sold all of her shares in Johnson Controls, Inc. on October 15, 2015.

Justice Breyer has devoted substantial judicial time to this case. See Comm. on Codes of Conduct, Advisory Op. No. 69 (June 2009) ("The Committee believes that this provision [Canon 3C(4)] applies to cases in which a judge has already expended a substantial amount of time."); 28 U. S. C. §455(f). He has no reason to believe that the financial interest could be substantially affected by the outcome of the case.

Justice Breyer has consequently concluded that he should continue to participate in this case.

Sincerely,

Scott S. Harris
Clerk of the Court