



Thomas R. Kuhn
President

December 14, 2011

Ms. Julia Eirinberg
Associate General Counsel
Office of Government Ethics
1201 New York Avenue, NW
Suite 500
Washington, DC 20005-3917

RE: Office of Government Ethics, RIN 3209-AA04, Comments on Proposed
Amendments to 5 C.F.R. § 2635

Dear Ms. Eirinberg,

The Edison Electric Institute (EEI) appreciates the opportunity to submit comments regarding the Office of Government Ethics' proposed changes to the Standards of Conduct for Employees of the Executive Branch.

EEI is the trade association for shareholder-owned electric companies and serves international affiliates and industry associates worldwide. Our U.S. member companies serve 95 percent of the ultimate customers in the shareholder-owned segment of the industry and nearly 70 percent of all electric utility customers in the nation, including the nation's largest consumer of energy – the United States government.

The electric utility industry interacts with almost every agency of the federal government in order to generate, transmit and distribute affordable and reliable electricity to the citizens of the United States and support a growing, productive economy. Because of the importance of the electric utility industry to this nation and the vital need for the federal government to interface with the industry on many diverse issues related to national security, energy, commerce, transportation, communications and the environment, among others, EEI and its member companies are uniquely situated, and will be adversely impacted by the proposed changes to the widely-attended gathering (WAG) rule.

The proposed rule correctly recognizes that WAGs can serve “important government purposes” and “provide a legitimate educational or professional development benefit that furthers the interests of an agency,” and exempts certain nonprofit organizations from the proposed WAG rule. However, trade associations are inexplicably omitted from the list of nonprofits that are exempted. Like the groups the rule proposes to exempt, trade associations in general, and EEI in particular, also regularly sponsor valuable educational and professional development events and should be exempted from the new rule. Every year, EEI organizes hundreds of meetings, roundtables, conferences and seminars that bring together public and private sector officials and employees to share information on issues that affect all sectors of the economy. This educational process and exchange of ideas is required for sound decision-making, without which government employees would be crafting policies devoid of access to the most relevant information.

One key example of educational and informational programs is the Edison Electric Institute’s Transmission and Wholesale Markets School, which was attended by a number of FERC employees this year. This intensive five day educational course provides a comprehensive foundation and deeper understanding of the nation’s transmission and wholesale electric markets. It provides a review of market design, transmission pricing and operational issues with an emphasis on the institutional and financial dimensions of policy, as well as reliability, markets and issues on the horizon. The course is designed to educate and inform electric industry newcomers as well as experienced industry executives and regulators who want to broaden their understanding of an increasingly complex industry.

EEI also hosts numerous environmental-related meetings every year that include officials and employees from the Environmental Protection Agency, Department of Energy, Department of the Interior and other federal agencies. These include meetings of the Carbon Capture and Storage Work Group; the Air Quality Subcommittee; the Global Climate Subcommittee; and the Environment Executive Advisory Committee. These meetings feature extensive discussion of technical and regulatory issues of mutual interest and vital importance.

Similarly, EEI co-hosts the annual Electric Utility Environmental Conference with the Electric Power Research Institute, Department of Energy, and Environmental Protection Agency every winter that provides an invaluable opportunity for attendees to exchange information and learn about new and innovative solutions to the country’s environmental and energy concerns. Such opportunities also support the administration’s goals of collaborating with the business community to create new, green jobs and grow the economy.

The necessary interface between government employees and industry personnel includes issues related not just to policymaking but also to operational concerns. For

example, without the WAG exception for trade associations, FERC employees would not have been able to attend EEI's 22nd annual Wall Street-Regulator Dialogue in New York City in August 2011, an event that brought together EEI member company officials, wall street advisors, state energy commissioners, and FERC employees to discuss such important issues as access to capital, cost-of-capital implications resulting from the recent U.S. credit downgrade, operational considerations related to fracking and natural gas, and the need for developing new approaches to regulating utilities in today's world. The overwhelmingly positive feedback from attendees of this annual conference confirms that such events provide an invaluable opportunity for the free exchange of ideas between government and the private sector.

Finally, through its Troops to Energy Jobs program, EEI engages in collaborative efforts with the United States military, the Departments of Defense, Labor and Energy and their state agencies as well as community colleges, unions, non-profit organizations and other private sector entities to create a unique partnership between the U.S. military and the energy industry. The Troops To Energy Jobs program accelerates the training and employability of veterans for key energy positions. With their intensive military training and experience, many veterans already have the skills and knowledge required for energy careers. They just need a pathway to successful job placement and career advancement. In connection with this program, EEI anticipates hosting events at which DOE employees, Veterans Administration employees, military personnel, and White House employees are in attendance. Without the WAG exception, EEI could not continue to organize and include federal employees in such critical events that support our nation's troops.

The aforementioned events are precisely the kind of "substantive events" that provide a "legitimate educational or professional development benefit that furthers the interests of an agency." These educational and professional development programs are virtually the same as those conducted by other types of organizations that would be exempted from the proposed rule, and therefore trade associations such as EEI should be permitted to continue to host such educational opportunities. EEI's ability to interact with government employees through educational and professional development programs is vital to our nation's security and well-being.

Although EEI strongly supports OGE's efforts to promulgate regulations aimed at ensuring the highest ethical standards among federal government employees, we believe this proposed rule will not only not serve those goals, but will do so at the expense of innovation and collaboration between the public and private sectors. Additionally, OGE has not cited, nor is EEI aware of, any specific examples of abuses of the current gift rules that would necessitate the changes proposed by OGE. In EEI's extensive experience vetting and sponsoring WAG events over the past two decades, EEI has found that agency ethics officials apply the agency interest determination stringently to ensure full compliance with the WAG requirements.

EEl joins the hundreds of nonprofit organizations, individuals, and government agencies that have submitted comments in opposition to the proposed rule. We also endorse the comments submitted by the American Society of Association Executives, of which EEl is a member. We respectfully request that OGE's proposed rule be modified to allow federal employees to continue to participate in educational programs and events held by trade associations.

Thank you for your consideration of these comments. If we can provide any additional information, please contact me at 202-508-5555.

Sincerely,

A handwritten signature in blue ink, appearing to read "Thomas R. Kuhn", with a long, sweeping flourish extending to the right.

Thomas R. Kuhn