

The facts of your letter are incorporated in this letter for the sake of brevity. You basically advise that you were previously employed by a law firm involved in energy law. While employed by that firm, you represented oil and gas companies in two administrative hearings before the Federal Energy Regulatory Commission (FERC). The first hearing involved a group of oil companies who opposed a proposed increase in transportation rates of natural gas. The second involved oil and gas companies who were involved in a contract dispute with a natural gas pipeline. You state that you are now employed by the Department of Energy's (DOE) Office of Policy, Planning and Analysis as a consultant.

In this capacity, you analyze national energy policy issues and advise the director and deputy director of the policy office. You state that you are not directly involved in any regulatory activities nor do you participate in any FERC proceedings. You state that you do not represent DOE in any type of legal proceeding nor do you provide legal advice to DOE. You are not retained by the general counsel's office of DOE nor do you have any informal, advisory relationship with lawyers in that office. DOE is not a party to either of the proceedings which you were involved with in your former employment nor do you have any continuing involvement in either litigation in either a professional or personal capacity. You are not involved in the subject matter of the two proceedings in your new job.

Disciplinary Rule 5-105(D) of the Virginia Code of Professional Responsibility states that "A lawyer who has represented a client in a matter shall not thereafter represent another person in the same or substantially related matter if the interest of that person is adverse in any material respect to the interest of the former client unless the former client consents after disclosure."

Based upon the information provided in your letter, the Committee opines that your new employment is not substantially related to your prior representation of clients before the FERC, nor is your employment by the DOE adverse to your prior representation of those clients. Based upon the facts of your letter, the Committee opines that there is no violation of DR:5-105(D).

Committee Opinion
July 14, 1988