



# STATE OF CONNECTICUT OFFICE OF STATE ETHICS

## Advisory Opinion No. 2016-3

August 18, 2016

**Question Presented:** The petitioner asks whether as a Utility Commissioner at the Public Utilities Regulatory Authority (“PURA”) he may accept membership on the board of the American Superconductor Corporation (“AMSC”).

**Brief Answer:** We conclude that the petitioner, based on the facts presented and provided he adheres to the restrictions discussed herein, may pursue outside employment on the board of directors of the AMSC.

At its July 2016 regular meeting, the Citizen’s Ethics Advisory Board granted the petition for an advisory opinion submitted by Arthur H. House, Chairman of the Public Utilities Regulatory Authority. The Board now issues this advisory opinion, which interprets the Code of Ethics for Public Officials<sup>1</sup> (“Ethics Code”), is binding on the Board concerning the person who requested it and who acted in good-faith reliance thereon, and is based on the facts provided by the petitioner.

### **Facts**

The following facts, as set forth by the petitioner, are relevant to this opinion:

---

<sup>1</sup>Chapter 10, part I, of the General Statutes.

I serve as a utility commissioner of the Public Utilities Regulatory Authority (PURA) and write to respectfully request an advisory opinion that my service as a board member of American Superconductor Corporation (AMSC) would be permissible under the Code of Ethics for Public Officials.

Utility commissioners of the Public Utilities Regulatory Authority are appointed by the Governor and confirmed by the legislature pursuant to Conn. Gen. Stat. § 16-2(a). As a PURA Commissioner, I am a public official subject to the Code of Ethics for Public Officials. See Conn. Gen. Stat. § 1-79 (11). One of the three PURA utility commissioners, I decide various matters brought before PURA with respect to electricity, natural gas, water and some aspects of telecommunications. I also serve as the Chairman of PURA and am responsible for the organization and management of PURA. See Conn. Gen. Stat. § 16-2(f).

I have been approached to serve on the Board of Directors of AMSC (NASDAQ: AMSC), a global design and engineering company serving the wind power and power-grid industries. AMSC is not registered with the Connecticut Secretary of State, does not have Connecticut customers and to date has no business pending with Connecticut utilities that would come before PURA. AMSC has not appeared before PURA and has no business or reason to be before PURA. Should that situation change in the future, I would recuse myself from such request.

\*\*\*

Founded in 1987, AMSC (NASDAQ: AMSC) is headquartered near Boston, Massachusetts with operations in Asia, Australia, Europe and North America.

AMSC provides engineering and design services for cleaner energy solutions to the wind and power-grid industries. Through its Windtec Solutions, AMSC enables manufacturers to launch best-in-class wind

turbines quickly, effectively and profitably. Through its Gridtec Solutions, AMSC provides engineering planning services and advanced grid systems that optimize network reliability, efficiency and performance. With a large international presence, the company's solutions are now powering gigawatts of renewable energy globally and enhancing the performance and reliability of power networks in more than a dozen countries.

### **Superconductors**

AMSC's core technologies are superconductors and power module power converters. They are the heart of the company's core business products and solutions.

AMSC has more than 390 patents and patent applications in the field of superconductors. Superconductor power cables include high-capacity transmission and distribution cables that can increase the thermal threshold of new or existing conveyance corridors. These cables can be used in alternative current or direct current including transmission, superconducting generators, voltage regulators and degaussing systems for naval vessels. They are well suited to increase a grid's capacity, reliability, security and efficiency.

### **Resilient Electric Grid (REG) Systems**

REG systems improve performance in prevention of catastrophic equipment failures, physical/electronic threats, weather-related disasters and failures of older equipment including protection against the loss of critical substation facilities. All such events can disrupt operations and cause blackouts. One specific REG protection is to substation facilities in urban areas by enabling shared transmission connections and excess substation capacity while controlling high fault currents that can result from interconnections. In certain instances, REG systems can strengthen resilience without incurring the cost of upgrades to transmission and distributions infrastructure.

### **Electric Control Systems (ECS) for Wind Turbines**

AMSC offers services to support building local supply chains and building of turbine manufacture facilities. AMSC's turbine designs cover 1.65 megawatts, 2 megawatts and 3 megawatts onshore and up to 5.5 megawatts offshore. ECS use AMSC's PowerModule power converter and other systems to regulate voltage, control power flows and maximize turbine efficiency. The ECS accounts for about 15 percent of a turbine's material costs.

### **D-VAR Grid Interconnection and Voltage Control Equipment**

D-VAR systems can provide reactive power needed to stabilize voltage on the grid. It is one of AMSC's basic grid interconnection products used both to stabilize voltages and to ensure high power quality. The systems can connect wind and solar farms to the grid. They can also protect industrial facilities against voltage fluctuations.

\*\*\*

Prior to my appointment to PURA, I had international experience through work in third world countries as an economist and loan officer at the World Bank; national security work on the staff of the National Security Council; staff work on international trade issues in the United States Senate; work on business opportunities and operations in the international financial services and manufacturing work in the insurance, banking and manufacturing sectors, and problem solving in the areas of finance and taxes through work as an international consultant. More recently I served in the U.S. Intelligence Community for several years before joining PURA.

In other work, I represented several companies in government relations work in Washington, D.C. and also worked extensively on corporate communications challenges including external communications,

employee communications and investor relations. AMSC has important business relationships in India and China. I have worked in both countries: on industrial financing for the World Bank in India, an acquisition by Tenneco Corporation and as a consultant on tax issues between MasterCard and the Government of India. In China I have worked on trade issues, national security matters and investments. I understand that these prior experiences are among the reasons that AMSC has asked me to serve on the board.

I do not see any overlap or conflict between my PURA obligations and AMSC's business. PURA has jurisdiction over Connecticut retail electric distribution, and enforcement of the obligations placed on public utilities and electric suppliers under the Connecticut General Statutes. AMSC is not a public utility, does not do business in Connecticut and has no obligations to the State of Connecticut. Serving on the AMSC Board will not influence or impair my performance as a PURA Commissioner, nor is it in conflict with my duties as a public official.

I respectfully request that the Citizen's Ethics Advisory Board grant this petition and issue an advisory opinion permitting me to serve on the AMSC Board of Directors.

### Analysis

As a PURA Commissioner, Arthur H. House is a "public official"<sup>2</sup> and thus subject to the Ethics Code. Because members of the Board of Directors of the AMSC are compensated for their service,<sup>3</sup> Commissioner House's service has to be analyzed in light of the Code's two principal outside-employment provisions, subsections (b) and (c) of General Statutes § 1-84.

First, a public official may not, among other things, "accept other employment which will either impair his independence of judgment

---

<sup>2</sup>See General Statutes § 1-79 (12).

<sup>3</sup>AMSC website, available at <http://ir.amsc.com/financials.cfm> (last visited August 11, 2016).

as to his official duties.”<sup>4</sup> For purposes of § 1-84 (b), the term employment is construed broadly, to include any work or endeavor, whatever its form, undertaken in order to obtain financial gain (e.g., employee of a business, sole practitioner, independent contractor, investor, etc.).<sup>5</sup> Second, a public official may not “use his public office . . . to obtain financial gain for himself . . .”<sup>6</sup> These provisions are generally violated when outside employment is accepted “with an individual or entity which can benefit from the state servant’s official actions (e.g., the individual in his or her state capacity has specific regulatory, contractual, or supervisory authority over the private person).”<sup>7</sup>

And so, the questions here are two-fold; (1) whether the petitioner has any experience or expertise relevant to the employment at issue; and (2) whether that employment conflicts with or trades on his official position as Utility Commissioner of the PURA.

With regards to the petitioner’s experience that is relevant to his outside employment, it is well established that subsections (b) and (c) of § 1-84 do not prevent a public official “from utilizing [his or] her experience or expertise for personal gain, provided no provision of the Code is violated.”<sup>8</sup> The petitioner has extensive experience in corporate governance having held senior executive positions at Cigna, Aetna, Tenneco and Webster Bank.<sup>9</sup> Furthermore, the petitioner served on several not-for-profit organizations’ boards of directors.<sup>10</sup> Also, he has gained international experience in third world countries as an economist and loan officer for the World Bank. The petitioner also has experience in relevant fields such as industrial finance and tax issues, corporate communications, and investor and government relations. This level of experience is highly desirable for a member of the board of directors of a corporation serving a global market. Therefore, based on the facts presented by the petitioner, it appears that the AMSC has offered him a position on the Board of Directors

---

<sup>4</sup>General Statutes § 1-84 (b).

<sup>5</sup>Regs., Conn. State Agencies § 1-81-14.

<sup>6</sup>General Statutes § 1-84 (c).

<sup>7</sup>Regs., Conn. State Agencies § 1-81-17.

<sup>8</sup>Advisory Opinion No. 2003-20, Connecticut Law Journal, Vol. 65, No. 24, p. 10C (December 9, 2003).

<sup>9</sup>Public Utilities Regulatory Authority, Biographies Page, available at <http://www.ct.gov/pura/cwp/view.asp?a=3351&Q=455206#AH> (last visited July 27, 2016).

<sup>10</sup>Id.

as a result of his extensive experience in corporate governance, and he is not utilizing his state office for financial gain. However, if the petitioner has knowledge that the AMSC offered the position as a result of his state employment, then he would be barred, at a minimum, from receiving compensation.<sup>11</sup>

Turning to the second question of whether the proposed outside employment conflicts with the petitioner's official position as a PURA Commissioner, the petitioner would be prohibited from accepting the board position if the service on the AMSC Board would conflict or impair his independence of judgment as to his official duties.<sup>12</sup> The facts presented by the petitioner are analogous to those presented in a recent staff advisory opinion.<sup>13</sup> In that situation, the president and executive director of the Connecticut Housing Finance Authority ("CHFA") sought guidance on whether he may accept a board position at the Federal Home Loan Bank of Boston ("FHLBB").<sup>14</sup> The FHLBB did not conduct any business in Connecticut.<sup>15</sup> Based on the facts presented, the opinion noted that "no impairment of independence of judgment issues or use of office concerns appear to arise."<sup>16</sup> Here, the petitioner states that the AMSC does not have any customers in Connecticut nor any pending business that would come before the PURA. Furthermore, while AMSC provides services to utility companies, they do not currently provide any services to any entities regulated by PURA. In addition, AMSC is not a public utility but rather markets sustainable power systems and solutions to commercial and government customers. In conclusion, because the AMSC does not operate within Connecticut or the jurisdiction of the PURA there is no impairment of petitioner's independence of judgment.

Having addressed the most pertinent provisions of the Ethics Code, we now turn to the remaining sections the petitioner should be

---

<sup>11</sup>Advisory Opinion No. 2001-24, Connecticut Law Journal, Vol. 63, No. 19, p. 5D (November 6, 2001) (President of a state community college was restricted from accepting compensation for her service on a regional bank's board of directors, even though she did not exercise official authority over the bank, because she was asked to serve by virtue of her state position.)

<sup>12</sup>General Statutes § 1-84 (b).

<sup>13</sup>Request for Advisory Opinion No. 12227 (2014).

<sup>14</sup>Id.

<sup>15</sup>Id.

<sup>16</sup>Id.



aware of once he accepts a position as a member of the AMSC Board of Directors.

By accepting the position on the AMSC Board of Directors, the AMSC will become a business with which the petitioner is associated.<sup>17</sup> Under § 1-85, a public official has a substantial conflict and may not take official action if, “he has reason to believe or expect that he . . . or a business with which he is associated will derive a direct monetary gain or suffer from a direct monetary loss . . . by reason of his official activity . . . .”<sup>18</sup> In addition, the petitioner may have a potential conflict if he “would be required to take an action that would affect a financial interest of . . . [an associated business] other than an interest of a de minimis nature . . . .”<sup>19</sup> or “an interest that is not distinct from a substantial segment of the general public . . . .”<sup>20</sup> If such a potential conflict were to arise, § 1-86 requires:

[A] member of a state regulatory agency, [to] either excuse himself or herself from the matter or prepare a written statement signed under penalty of false statement describing the matter requiring action and the nature of the potential conflict and explaining why despite the potential conflict, such official or employee is able to vote and otherwise participate fairly, objectively and in the public interest.<sup>21</sup>

Petitioner has offered to recuse himself if any business relating to the AMSC were to come before the PURA. While recusing would meet

---

<sup>17</sup>“Business with which he is associated’ means any sole proprietorship, partnership, firm, corporation, trust or other entity through which business for profit or not for profit is conducted in which the public official or state employee or member of his or her immediate family is a director, officer, owner, limited or general partner, beneficiary of a trust or holder of stock constituting five per cent or more of the total outstanding stock of any class, provided, a public official or state employee, or member of his or her immediate family, shall not be deemed to be associated with a not for profit entity solely by virtue of the fact that the public official or state employee or member of his or her immediate family is an unpaid director or officer of the not for profit entity. ‘Officer’ refers only to the president, executive or senior vice president or treasure of such business.” General Statutes § 1-79 (2).

<sup>18</sup>General Statutes § 1-85.

<sup>19</sup>Id.

<sup>20</sup>Id.

<sup>21</sup>General Statutes § 1-86 (a).



the requirements of §§ 1-85 and 1-86, the “individual’s state job must come first; ‘outside employment which threatens such priority impermissibly impairs a state employee’s independence of judgment’”<sup>22</sup> As has been noted in Advisory Opinion 99-12, too frequent recusals may require the petitioner to resign from either the AMSC Board of Directors or the PURA.<sup>23</sup>

### **Conclusion**

We conclude that Commissioner House, based on the facts presented and provided he adheres to the restrictions discussed herein, may pursue outside employment on the board of directors of the AMSC.

By order of the Board,

Dated \_\_\_ 8/18/16 \_\_\_

/s/ Charles F. Chiusano  
Chairperson

---

<sup>22</sup>Advisory Opinion No. 97-22, Connecticut Law Journal, Vol. 54, No. 30, p. 3D (January 20, 1998), quoting Advisory Opinion No. 94-22, Connecticut Law Journal, Vol. 56, No. 22, p. 5D (November 29, 1994).

<sup>23</sup>Advisory Opinion No. 99-12, Connecticut Law Journal, Vol. 61, No. 2, p. 5C (July 13, 1999).