



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 19, 1999

Mr. Edward F. Kelly, Esquire
Campaign for Fair Electric Rates
160 Second Street
Cambridge, MA 02142

RE: MUR 4804
Campaign for Fair Electric Rates and Frances Graham, Treasurer

Dear Mr. Kelly:

On September 8, 1998, the Federal Election Commission notified your clients of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your clients. See attached narrative. Accordingly, the Commission closed its file in this matter on May 19, 1999.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "F. Andrew Turley".

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

MUR 4804

O'CONNOR COMMITTEE

Thomas R. Kiley, treasurer of the "Yes on 4 Coalition," a Massachusetts state ballot initiative committee, alleges that John O'Connor's congressional campaign committee improperly diverted federal funds to pay for "Question 4 oriented events" held by the Campaign for Fair Electric Rates ("CFER"). In support of his complaint, he encloses a flyer that invites members of the public to attend a CFER event to meet John O'Connor and learn about Question 4. According to the disclaimer, the flyer was paid for by the O'Connor Committee. Mr. O'Connor lost the 1998 Primary election for Massachusetts' 8th congressional district with 13% of the vote to Michael Capuano's 23%.

Respondent O'Connor Committee denies making any contributions to the state political committee. It further asserts that such action would not have violated the Federal Election Campaign Act. The Committee admits that it paid for the flyer in order to avoid benefiting from a possibly prohibited in-kind contribution from a state committee. The Committee concludes that the complainant alleged no violation in the complaint, and it should be dismissed. CFER, also seeks dismissal on the basis that the complaint does not allege any violation of the Federal Election Campaign Act or FEC regulations.

This matter is less significant relative to other matters pending before the Commission.