



January 12, 2018

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Chair of the SCETV Commission Brent Nelson
President and CEO, Anthony Padgett
1041 George Rogers Blvd.
Columbia, SC 29201-4761

Dear Mr. Nelson and Mr. Padgett,

I serve as legal counsel for the Phil Noble for Governor campaign. I am writing to you about the Governor's State of the State address to be broadcast by SCETV next Wednesday, January 17 and, particularly, the Democratic Party response.

The House Democratic Caucus has announced that SC House Member James Smith would give the response and that announcement specifically states that he is a candidate for governor. Links to these announcements are listed here:

<https://twitter.com/SCHouseDems/status/950423725236785152> (Twitter post from House Dem. Caucus from 1/8);

<https://twitter.com/JamesSmithforSC> (James Smith's Twitter page);

<http://www.thestate.com/news/politics-government/article193563659.html> (The State news story on it on 1/8).

We assume that someone from the Caucus contacted SCETV and designated Rep. Smith to give the Democratic response. The choice of Rep. Smith, however, is inappropriate and breaks with sound policy and established precedent against giving this kind of platform to a candidate in a gubernatorial party primary.

Over the last three instances in which a Democratic legislator responded to a sitting Republican governor in an election year, no Democratic gubernatorial candidate facing primary opposition was selected to give the response: the person chosen was always a Democratic legislator who was not running for governor. Specifically, in 2014, Sen. Vince Sheheen was the Democratic candidate and Rep. James Smith gave the response. Earlier, in 2010, Sen. Sheheen was the Democratic gubernatorial candidate and Rep. Harry Ott gave the response. In 2006, Sen. Tommy Moore was the candidate and Rep. Mandy Powers Norrell gave the response.

Allowing one of two candidates for the Democratic nomination for Governor of South Carolina to have the platform of the Democratic response to the State of the State address, broadcast statewide and beyond, gives that candidate an unfair and improper advantage in that race, and breaks with the sound practice over recent years to have another party legislator give that address.

Further, since Rep. Smith is an announced candidate for governor, if ETV is providing him a forum that is not being provided to other candidates, this would seem to be an in-kind donation to a political candidate by a state agency, which of course is not allowed by law.

It is unclear to us how Rep. Smith was chosen to give the address and by whom. I am copying SCDP Chairman Trav Robertson on this correspondence and would ask him to respond to that question.

On behalf of Mr. Noble, I respectfully request that, if Rep. Smith is allowed to address the SCETV audience following the Governor's State of the State speech, Mr. Noble be given equal time to appear and address the same audience.

I appreciate your attention and consideration and look forward to your response.

Respectfully yours,

AUSTEN & GOWDER, LLC



W. Andrew Gowder, Jr.

CC: Trav Robertson, Chair, SC Democratic Party
Attorney General Alan Wilson
Rep. Todd Rutherford, Democratic House Caucus