

PUBLIC SERVICE COMMISSION

CONFLICTS, GIFTS, AND GRATUITIES

POLICY 1-21-78 (5)

JANUARY 26, 2000

A. PURPOSE

To establish guidelines to govern relationships involving Commissioners, Commission employees, regulated entities, special interest groups, and parties to Commission proceedings.

B. POLICY

1. State law concerning conflicts of interest are set forth primarily in Chapter 12.1-12 of the North Dakota Century Code. Employees are encouraged to review state law concerning conflicts of interest and must abide by them. Employees who are involved with federal programs and funds must also be aware of and must abide by federal mandates concerning conflicts of interest. Employees who perform any function under the state's coal mining and reclamation laws, Chapter 38-14.1 of the North Dakota Century Code, must also comply with Chapter 69-05.2-02 of the North Dakota Administrative Code.
2. Individuals, firms, or organizations and their employees or agents shall not directly or indirectly offer nor shall Commissioners or employees directly or indirectly accept or solicit any gift, gratuity, entertainment, favor, loan, or any other thing of monetary value which might reasonably be interpreted as intended to secure a favorable decision from the Commission. Political contributions are governed by paragraph 7.
3. Unless authorized by the Commission, a Commissioner or an employee may not be pecuniarily interested or concerned in any contract that may be entered into by the agency or by an entity regulated by the Commission. Whenever a member of a Commissioner's or an employee's immediate family is pecuniarily interested or concerned in a contract with the agency or an entity regulated by the Commission, they must disclose that fact to the Commission. For the purposes of this and the following section, "immediate family" includes an individual's spouse and persons who are claimed as dependents for income tax purposes.

Who is authorized to make this decision?

4. No Commissioner, commission employee, or agent shall participate in a Commission decision if a conflict of interest would be involved. A conflict would arise when:
 - The commissioner, the employee or agent, any member of the commissioner's immediate family, the commissioner's partner, or
 - An individual firm or organization which employs or is about to employ the commissioner, commission employee, the commissioner's immediate family member, or partner, has a financial interest other than a de minimis interest or other interest directly or substantially affected by the Commission decision. A "de minimis" interest for this purpose is an insignificant interest that could not raise reasonable questions as to impartiality.
5. No Commissioner, employee, or immediate family member may own any stock or securities or have other financial interests in any company regulated by the Commission; except, however, ownership of stock through mutual funds is not prohibited but ownership of sector funds or employer stock contributions to retirement plans that focus on industries regulated by the Commission is prohibited without prior Commission approval.
6. No Commissioner, employee, or immediate family member may be employed by a company regulated by the Commission **unless that employment is deemed by the Commission to not represent a conflict of interest.**
7. During an audit or inspection, Commissioners, employees, or agents shall neither solicit nor accept gratuities, meals, favors, or anything of monetary value from anyone with an interest in the results of the audit or inspection.
8. No political contribution may be offered, solicited, or accepted **for the purpose of affecting a favorable decision.**

The Commissioners decide if what they do is not a conflict of interest? They will always decide that what they do is legal.

This allows biased decisions. This phrase should be removed.

REFERENCES

- (0) PSC Minutes, November 29, 1978
- (1) PSC Minutes, December 15, 1987
- (2) PSC Minutes, September 10, 1997
- (3) PSC Minutes, November 5, 1997
- (4) PSC Minutes, November 19, 1997
- (5) PSC Minutes, January 26, 2000