



State Ethics Commission of Georgia

ADVISORY OPINION NO. 1999-30
September 21, 1999

SUBJECT: FORMATION OF POLITICAL ACTION COMMITTEE BY INDIVIDUALS SYMPATHETIC TO INTERESTS OF REGULATED PUBLIC UTILITIES

REAL OR HYPOTHETICAL SET OF CIRCUMSTANCES:

A business entity which has members that are Public Service Commission (PSC) regulated public utility corporations, and which is governed by such PSC – regulated corporations, and which receives substantially all its revenues from dues of such PSC – regulated corporations asks if the business entity may lawfully establish a PAC provided it is fully reimbursed for all costs by the PAC, and if not, whether individuals affiliated with the business entity or its members may lawfully establish a PAC.

ADVISORY OPINION

Because the law provides in O.C.G.A. § 21-5-30(f):

A person acting on behalf of a public utility corporation regulated by the Public Service Commission shall not make, directly or indirectly, any contribution to a political campaign...

The Attorney General stated (in Georgia Attorney General Opinion 86-2) that a political action committee “funded by voluntary personal contributions from employees and persons affiliated with public utility corporations regulated by the Public Service Commission” could “not receive any assistance whatsoever from the regulated public utility corporation...”

Accordingly, the fronting or funding of PAC expenses by a regulated public utility corporation for subsequent reimbursement was thereby ruled out, and the first course suggested above is not legally authorized.

As to the second course set out, individuals interested in issues affecting EMCs may voluntarily associate for the purpose of forming and operating a PAC, provided they do “not receive any assistance whatsoever” from any regulated public service utility.

Therefore it is possible to establish a PAC which, if established and operated by individuals in their personal capacities and not on behalf of a public utility corporation regulated by the Georgia Public Service Commission, would be a lawful endeavor.

As to naming the PAC, presumably the name of the business entity could not be used without authorization. Use of the name of the business entity by the PAC indicates “acting on behalf of.” Use of the business entity name by the PAC should be avoided since, arguably, authorizing the use of the name is a sufficient form of assistance to establish that the PAC is acting on behalf of a regulated public utility corporation in violation of the prohibition of the statute.