



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

August 1, 2023

The Honorable Joel R. Carter, Jr.  
Senator, District 49  
Post Office Box 1300  
Gulfport, Mississippi 39502

Re: Acceptance of Campaign Contributions

Dear Senator Carter:

The Office of the Attorney General has received your request for an official opinion.

### **Questions Presented**

1. Is it lawful for a Public Service Commission Commissioner, candidate, or employee to accept a campaign contribution from an attorney working in a law firm which currently represents a regulated entity?
2. Is it lawful for a Public Service Commission Commissioner, candidate, or employee to accept a campaign contribution from an attorney working in a multi-state law firm in which an out-of-state office currently represents a regulated entity?
3. Is it lawful for a Public Service Commission Commissioner, candidate, or employee to accept a campaign contribution from an attorney who has, in the past, represented a regulated entity?
4. Is it lawful for a Public Service Commission Commissioner, candidate, or employee to accept a campaign contribution from the spouse of an attorney who has, in the past, represented a regulated entity?
5. Is it lawful for a Public Service Commission Commissioner, candidate, or employee to accept a campaign contribution from a contract lobbyist with multiple clients if one of the clients has issues that could be heard by the Commission?
6. Is it lawful for a Public Service Commission Commissioner, candidate, or employee to accept a campaign contribution from a nonprofit intervenor that appears before the Commission?

7. If so, what language could be added to the statute to close this glaring loophole?

**Brief Response**

1. It is lawful for a Public Service Commission (“PSC”) Commissioner, candidate, or employee to accept a campaign contribution from an attorney working in a law firm that currently represents a regulated entity unless the Commissioner, candidate, or employee knows that the attorney has an interest as owner, agent, or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the PSC or knows that the attorney is acting in any respect for such owner, agent, or representative.
2. It is lawful for a PSC Commissioner, candidate, or employee to accept a campaign contribution from an attorney working in a multi-state law firm in which an out-of-state office currently represents a regulated entity unless the Commissioner, candidate, or employee knows that the attorney has an interest as owner, agent, or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the PSC or knows that the attorney is acting in any respect for such owner, agent, or representative.
3. It is lawful for a PSC Commissioner, candidate, or employee to accept a campaign contribution from an attorney who, in the past, represented a regulated entity unless the Commissioner, candidate, or employee knows that the attorney has a current interest as owner, agent, or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the PSC or knows that the attorney is acting in any respect for such owner, agent, or representative.
4. It is lawful for a PSC Commissioner, candidate, or employee to accept a campaign contribution from the spouse of an attorney who, in the past, represented a regulated entity unless the Commissioner, candidate, or employee knows that the spouse has a current interest as owner, agent, or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the PSC or knows that the spouse is acting in any respect for such owner, agent, or representative.
5. It is lawful for a PSC Commissioner, candidate, or employee to accept a campaign contribution from a contract lobbyist with multiple clients where one of the other clients has issues that could be heard by the PSC unless the Commissioner, candidate, or employee knows that the contract lobbyist has an interest as owner, agent, or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the PSC or knows that the contract lobbyist is acting in any respect for such owner, agent, or representative.
6. It is lawful for a PSC Commissioner, candidate, or employee to accept a campaign contribution from a nonprofit intervenor that appears before the PSC unless the

Commissioner, candidate, or employee knows that the nonprofit intervenor has an interest as owner, agent, or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the PSC or knows that the nonprofit intervenor is acting in any respect for such owner, agent, or representative.

7. Opinions of this office are limited to interpretations of state law pursuant to Section 7-5-25. Recommending specific language for legislative amendments is outside the scope of an official opinion.

### **Applicable Law and Discussion**

As an initial matter, we understand that you are seeking this opinion in your capacity as a legislator to determine whether to seek to amend Mississippi Code Annotated Section 77-1-11. Your request suggests that in previous elections, contributions may have been made and accepted in violation of Section 77-1-11. Pursuant to Section 7-5-25, this office may only opine on prospective questions of law. An Attorney General's Opinion can neither validate nor invalidate past action. We offer the following for prospective purposes only.

Section 77-1-11(1) provides, in relevant part:

It shall be unlawful for any Public Service Commissioner, any candidate for Public Service Commissioner, or any employee of the Public Service Commission or Public Utilities Staff to *knowingly* accept any gift, pass, money, campaign contribution or any emolument or other pecuniary benefit whatsoever, *either directly or indirectly*, from *any person interested* as owner, agent or representative, or from *any person acting in any respect* for such owner, agent or representative of any telephone company, gas or electric utility company, or any other public utility that shall come under the jurisdiction or supervision of the Public Service Commission . . . .

(emphasis added).

Notably, for a violation of Section 77-1-11(1) to occur, the PSC Commissioner, candidate, or employee must have *knowledge* of the donor's interest in or relationship to the regulated entity. All of the scenarios that you present in your request turn on the facts particular to that situation. Whether a donor is "interested as an owner, agent or representative" of a regulated entity, or even "acting in any respect for such owner, agent or representative" of a regulated entity, and whether a PCS Commissioner, candidate, or employee has knowledge of such interest or relationship are determinations of fact subject to judicial review and outside the scope of an official opinion. To the extent that MS AG Op., *Brown* (Oct. 26, 2016) and MS AG Op., *Posey* (Apr. 6, 2007) provide guidance as to inquiries a court may make to determine the relationship of the donor to the regulated entity, they remain the opinion of this office.

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If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard  
Special Assistant Attorney General

OFFICIAL OPINION