

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed Rule 25-21.050,) DOCKET NO. 950172-OT
F.A.C., Acceptance of Gifts) ORDER NO. PSC-95-0377-NOR-OT
) ISSUED: March 16, 1995
)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF RULEMAKING

NOTICE is hereby given that pursuant to Section 120.54, Florida Statutes, the Florida Public Service Commission has initiated rulemaking to adopt Rule No. 25-21.050, Florida Administrative Code, relating to acceptance of gifts.

The attached Notice of Rulemaking will appear in the March 24, 1995 edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at the following time and place:

Florida Public Service Commission
9:30 a.m., April 20, 1995
Room 122, Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399-0870, no later than April 14, 1995.

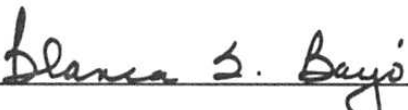
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FPSC-RECORDS/REPORTING

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BY ORDER of the Florida Public Service Commission, this 16th
day of March, 1995.



BLANCA S. BAYÓ, Director
Division of Records & Reporting

(S E A L)

CTM

Commissioner Deason dissented because he disagreed with the inclusion of the exception in (3)(a) of the rule relating to pre-existing personal relationships.

TIME AND DATE: 9:30 A.M., April 20, 1995

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399.

THE FULL TEXT OF THE RULE IS:

25-21.050 Acceptance of Gifts.

(1) This rule is adopted to implement section 112.326, Florida Statutes, authorizing agencies to impose more stringent standards of conduct upon their employees than those specified in Chapter 112, Part III, Florida Statutes. The provisions of (2) apply in addition to that part.

(2) A Commission employee shall not knowingly accept anything of value for which equal or greater consideration is not given from any entity listed below, its officers or employees. This prohibition shall further apply to any business entity that either directly or indirectly owns, controls, is an affiliate of or is a subsidiary of the listed entities. These include:

- (a) An entity regulated by the Commission;
- (b) An entity that is currently a party or has been a party in a Commission proceeding during the preceding 12 months; or
- (c) A person or entity acting on behalf of a regulated entity or party.

(3) The provisions of (2) shall not apply:

(a) When it is obvious from the circumstances that it is a relationship with a relative, as defined in section 112.312(21), Florida Statutes, or a personal relationship that pre-existed the regulatory relationship and which involves reciprocity, rather than the regulatory relationship, that is the motivating factor for offering a thing of value;

(b) To incidental items with a value of \$3.00 or less, determined as provided in section 112.3148(7), Florida Statutes;

(c) To items that are offered to the public at large or to public or private groups, such as professional, community, religious, social, or sports organizations, of which the employee is a member and where the group is not limited to employees of the Commission. However, a Commission employee shall not accept without payment food or beverages provided at a reception or similar event that is held in conjunction with a conference or meeting when the reception or similar event is sponsored by a regulated entity, association of regulated entities, or a party.

(d) To retirement or other post-employment benefits received as a result of prior employment with a regulated entity or party to a proceeding, which benefits the employee would receive regardless of employment by the Commission.

(e) To the acceptance of assistance in circumstances endangering the employee's or another person's life or property.

(f) To employees in secretarial, clerical, maintenance, or similar positions, unless the employee serves in a secretarial position under the direct supervision of a Commissioner.

(g) To the acceptance of transportation in a regulated entity's vehicle by an employee on a field visit to a site that is remote or difficult to access in a Commission vehicle.

(4) Violation of this rule shall constitute grounds for disciplinary action for conduct unbecoming a public employee.

(5) An employee who is uncertain about accepting anything of value may request a written advisory opinion from the General Counsel and Executive Director.

Specific Authority: 112.326, F.S.

Law Implemented: 112.326, F.S.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Christiana T. Moore

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: March 7, 1995

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

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Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).