

Prkic, Christina (COE)

From: Prkic, Christina (COE)
Sent: Friday, September 05, 2003 6:10 PM
To: 'Sean_Fletcher@fpl.com'
Subject: RE: Conflict of Interest question

RDD 03-145

Dear Mr. Fletcher:

According to the facts stated in your e-mail, you are an employee of Florida Power and Light [FPL] in a supervisory position. You are also a candidate for city council for the City of Homestead.

You requested an opinion regarding any potential voting conflicts as they relate to issues with the City of Homestead Electric Utility, a city-owned utility whose employees are considered City of Homestead government employees.

You mentioned that the City's Utility has been an important issue in the community. In fact, the City is considering selling the Utility. In previous Council meetings, FPL has made previous presentations expressing interest in purchasing the Utility. You would like to know what prohibitions and potential conflicts you might confront should you be elected to office and in light of your employment with FPL.

Under the Conflict of Interest and Code of Ethics Ordinance you would be prohibited from participating and voting on any issues involving FPL. Section 2-11.1 (d) provides,

Additionally, no person included in the term defined in subsection (b) (1) shall vote on or participate in any way in any matter presented to the Board of County Commissioners if said person has any of the following relationships with any of the persons or entities which would be or might be directly or indirectly affected by any action of the Board of County Commissioners: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary... or if in any instance the transaction or matter would affect the person defined in subsection (b) (1) in a manner distinct from the manner in which it would affect the public generally.

Accordingly, your employment with FPL precludes you from participating or voting on matters which involve FPL. In other words, should FPL appear before the Council you would have to recuse yourself.

However, you are not prohibited from voting on matters to increase or decrease electric rates, an example you raised in your letter. In addition, you are not prohibited from voting on other general matters [where FPL is not involved] pertaining to the Utility, including the specific question of whether to sell the Utility. On the other hand, should the City decide to sell the Utility, you would be prohibited from participating in activities involving its sale if FPL is one of several potential buyers. This includes such things as ranking or reviewing proposals/bids from companies and other selection process activities.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

Please do not hesitate to contact me should you have any additional questions or concerns regarding this opinion.

In addition, we will present this opinion to the Ethics Commission for ratification at its upcoming meeting on September 18th at 10 a.m. We will advise you should the Ethics Commission provide a different recommendation. The meeting is open to the public and is located at 19 West Flagler ST, Conference Room, Suite 220.

Enjoy your weekend!