

EXECUTIVE BRANCH ETHICS COMMISSION
ADVISORY OPINION 93-66

November 22, 1993

RE: Is "regulated by" considered "doing business with"?

This opinion is in response to your October 13, 1993, request for an advisory opinion from the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the November 22, 1993, meeting of the Commission, and the following opinion is issued.

As an attorney for the Public Service Commission, you receive numerous requests relative to the post-employment restrictions in KRS 11A.040(6):

(6) No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

You ask whether a utility regulated by the Public Service Commission is considered to be "doing business with the state" as used in the provisions above.

The Commission believes any entity which is regulated by a state agency is considered to be doing business with the state under KRS 11A.040(6). Therefore, a utility which is regulated by the Public Service Commission does business with the state.