

SUBJECT: REQUIREMENT THAT PUBLIC UTILITIES NOT INCLUDE POLITICAL CONTRIBUTIONS OR EXPENDITURES IN THEIR OPERATING EXPENSES

SUMMARY:

Electric cooperatives' political contributions and expenditures recorded in Account 426.4 as required by the Rural Electrification Administration do not violate the provisions of Section 8-13-1344(A), since this is a non-operating expense account.

QUESTION:

The attorney for the Electric Cooperative of South Carolina, Inc. requests an advisory opinion inquiring whether Section 8-13-1344(A) is violated by the Rural Electrification Administration (REA) requirement that an electric cooperative's expenditures for the purpose of influencing an election or operating a political action committee be recorded in Account 426.4 of the Federal Energy Regulatory Commission Uniform System of Accounts as modified by REA Bulletin 181. A letter from the Director of the Rural Electrification Administration, Power Supply Division, was submitted along with the opinion request. In this correspondence, the Director states that the expenditures described in Account 426.4 should be considered nonoperating expenses.

DISCUSSION:

This opinion is rendered in response to a letter dated July 31, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

Section 8-13-1344(A) provides:

A public utility may not include in its operating expenses a contribution or expenditure to influence an election or to operate a political action committee.

The REA Bulletin 181-1 describes Account 426.4 as follows:

426.4 Expenditures for certain civic, political and related activities.

This account shall include expenditures for the purpose of influencing public opinion with respect to the election or appointment of public officials, referenda, legislation, or ordinances (either with respect to the possible adoption of new referenda, legislation or ordinances) or approval, modification, or revocation of franchises; or for the purpose of influencing the decisions of public officials, but shall not include such expenditures which are directly related to appearances before

regulatory or other governmental bodies in connection with the reporting utility's existing or proposed operations.

In addition, the Special Instructions for REA Bulletin 181-1 provide that Account 426.4 "...shall include miscellaneous expense items which are nonoperating in nature... The classification of expenses as nonoperating and their inclusion in these accounts if for accounting purposes."

Based on the facts and information submitted, the State Ethics Commission does not believe that recording an electric cooperative's political contributions and expenditures in Account 426.4, as required by the Rural Electrification Administration, would violate the provisions of Section 8-13-1344(A).