

Opinion No. 47-5068

August 20, 1947

BY: C. C. McCULLOH, Attorney General

TO: Mr. W. W. Nichols, Chairman Public Service Commission Santa Fe, New Mexico

{*79} We wish to acknowledge receipt of your letter of August 15, 1947, wherein a copy of a letter to your Commission was enclosed from the Phillips Petroleum Company, wherein they question the right of the Commission to collect the {*80} \$ 50.00 fee from them provided by Section 8, Chapter 214, Session Laws of 1947.

According to their letter, Phillips Petroleum Co. sells and dispenses, at wholesale, liquefied petroleum gas at its Hobbs, New Mexico plant, but does not sell, repair or install containers or appliances in New Mexico. Neither does it operate any trucks in the wholesale or retail delivery of said gas, nor does it deliver said gas in bottles or other containers.

Section 8, Chapter 214 of the Session Laws of 1947 provides as follows:

"For the purpose of defraying the expenses of administering this act, each person, firm or corporation engaged in the installation, repair, or sale of containers, appliances or equipment, shall at the time of issuance of such license, and annually thereafter, on or before June 30 of each calendar year pay to the Commission a fee of fifty (50) dollars. Each person, firm or corporation who operates a truck or trucks in the wholesale or retail delivery of bulk quantities of liquefied petroleum gas or in self contained containers (bottled gas), shall at the time of issuance of such license, and annually thereafter, on or before June 30 of each calendar year, pay to the Commission a fee of fifty dollars (50). In addition, there shall be paid for a safety inspection of each and every truck made by a representative of the Commission an inspection fee of ten dollars (\$ 10.00), except this fee shall not be assessed more frequently than each twelve months."

In view of the fact the fifty dollar fee is levied on specified operations by Section 8, Chapter 214 of the Session Laws of 1947, and the activities of the Phillips Petroleum Company at Hobbs, New Mexico do not come within any of the matters set forth in said section, the Commission is without authority to collect the fifty dollar (\$ 50.00) fee.

Trusting the aforementioned satisfies your inquiry, I am

By: ROBERT V. WOLLARD

Asst. Atty. General