

Opinion No. 48-5156

June 17, 1948

BY: C. C. McCULLOH, Attorney General

TO: W. W. Nichols, Chairman Public Service Commission Liquefied Petroleum Gas
Division P. O. Box 561 Santa Fe, New Mexico

{*153} In your letter of June 1, 1948, you request the opinion of this office as to whether the Village of Hatch must comply with the requirements of the Liquefied Petroleum Gas Act of 1947 (Sections 71-801 to 71-825, inclusive, of the 1941 Compilation).

Section 71-822 of the 1941 Compilation provides that the Act shall not apply to persons, firms or corporations operating as a "public utility" as defined in the New Mexico Public Utility Act, insofar as the operations of such public utility are subject to the control of the Commission under said Public Utility Act.

Section 72-302 (of the Public {*154} Utility Act) defines the term "public utility" as used in that Act. Taking that definition alone, it might seem that the Village of Hatch would come under the Public Utilities Act. However, your attention is called to the definitions under Section 72-302 and Section 72-504 which provide that the supervision and regulation of utilities by the Commission under the Public Utilities Act does not extend to any utility owned and operated by a municipal corporation.

In view of the fact that the utility operated by the Village of Hatch does not come within the Public Utilities Act, it is our opinion that said village must comply with the requirements of the Liquefied Petroleum Gas Act of 1947.

By WILLIAM R. FEDERICI,

Asst. Atty. General