

Opinion No. 55-6227

July 13, 1955

BY: RICHARD H. ROBINSON, Attorney General

TO: O. L. Garretson, Chairman, New Mexico Liquefied Petroleum Gas Commission, State Capitol Building, Santa Fe, New Mexico

Pursuant to your request of even date, concerning the budget for the Liquefied Petroleum Gas Commission, you ask whether or not the Finance Board may approve a budget for the Commission, using funds that are obtained entirely from the revenue assigned by statute for the exclusive use of the Commission and whether or not the Finance Board may increase the budget contained in Ch. 287, Laws of 1955, which is the General Appropriation Act and which appropriates to the Public Service Commission, Liquefied Petroleum Gas Division, \$ 39,227 for the 44th fiscal year and \$ 40,151 for the 45th fiscal year.

The same Legislature, in Ch. 97, Laws of 1955, created the Liquefied Petroleum Gas Commission and amended and repealed certain sections in existence wherein the duties of that Commission were previously under the supervision and control of the New Mexico Public Service Commission. The Legislature, however, did not in any way affect the provisions of § 65-7-9 of the old Liquefied Petroleum Gas law, which provides as follows:

"Liquefied petroleum gas fund. -- All fees and moneys collected under the provisions of this act (§§ 65-7-1 -- 65-7-22) shall be remitted forthwith by the commission to the state treasurer and by him covered into the liquefied petroleum gas fund, and all moneys in said fund are hereby appropriated for the purpose of defraying the salaries and other expenses of the commission. The commission shall employ such clerks, assistants and other necessary help, and procure such equipment and records as may be necessary to carry out the provisions of this act, payable from the liquefied petroleum gas fund."

Thus the above quoted section is still in effect and provides a continuing appropriation of the funds coming into the Liquefied Petroleum Gas Commission. The General Appropriation Act (Ch. 287, Laws of 1955) Section 14 provides, in part, as follows:

"--- and provided further that upon written request by any state officer, department head, or any other institution, commission, or board operating on a budget, the governor and the State Board of Finance may make revision and such changes as are requested. Appropriations made for salaries shall not be increased except as may be required by salary adjustments in accordance with the Personnel Department schedules as authorized and approved by the State Board of Finance."

Thus the appropriation for the Liquefied Petroleum Gas Division of the Public Service Commission in the General Appropriations Act is binding upon the new Liquefied

Petroleum Gas Commission unless the Board of Finance, in compliance with Section 14, partially quoted above, adjusts and revises that budget. This the Board of Finance may do by reason of the continuing appropriation provided in § 65-7-9, above quoted, except that the salary provision in the General Appropriations Act may not be altered upward except insofar as it is necessary to do so to comply with the grade raises contained in the Personnel Act.

We sincerely hope this answers your inquiry.

By Fred M. Standley

Assistant Attorney General