

## **Opinion No. 71-09**

January 28, 1971

**BY:** OPINION OF DAVID L. NORVELL, Attorney General

**TO:** Arthur Ulibarri, Chairman Public Service Commission State Capitol Building Santa Fe, New Mexico 87501

### **QUESTIONS**

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1. Can a Public Service Commissioner, whose term expired January 15, 1971, and who has not been reappointed, continue in office until a successor is appointed to succeed him?
2. If the answer to No. 1 is in the affirmative, may he lawfully draw his salary, sign orders and otherwise perform the duties of a Public Service Commissioner?

#### **ANSWER**

1. Yes.
2. Yes.

### **OPINION**

#### **{\*12} ANALYSIS**

You raised the question as to the official status of a member of the Public Service Commission, whose term of office has expired but who, himself, has not been reappointed.

Article XX, Section 2 of the New Mexico Constitution states:

"Every officer, unless removed, shall hold his office until his successor has duly qualified."

A Public Service Commissioner is an officer within the constitutional definition contained in Article XX, Section 2 of the New Mexico Constitution, and a holdover officer is a de-jure officer with full and complete powers until his successor is duly qualified or until he is duly appointed.