

Opinion No. 52-5496

February 20, 1952

BY: JOE L. MARTINEZ, Attorney General

TO: Chairman, State Corporation Commission Santa Fe, New Mexico

{*211} This is in reply to inquiry requesting my opinion as to whether or not the Fred Harvey System, which operates dining cars on the A.T. & S.F. Railway is subject to the one-fourth of one percent utility and carriers fee imposed by Chapter 194 of the Laws of 1951.

It is my opinion that the Harvey System is not subject to the provisions of Chapter 194 of the Laws of 1951. That Act by its own language in Section 1 states:

"Each utility and carrier doing business in this state which is subject to the control and jurisdiction of the State Corporation Commission by virtue of the provisions of Article 11 of the Constitution of the State of New Mexico, with respect to its rates and service shall pay annually to the State Corporation Commission a fee . . ."

Section 7 of Article 11 of the New Mexico Constitution gives the Corporation Commission its powers of control and regulation over carriers of all types. The Harvey System is an operator of hotels and restaurants and does not operate as a common carrier or utility of {*212} any sort as set out in the Constitution.

I trust that this will answer your inquiry.