

Opinion No. 57-175

July 19, 1957

BY: OPINION OF FRED M. STANDLEY, Attorney General Joel B. Burr, Jr., Assistant Attorney General

TO: Mr. W. D. Badgett, Director, New Mexico Liquefied Petroleum Gas Commission, P. O. Box 1357, Santa Fe, New Mexico

QUESTIONS

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Does Section 65-7-10, N.M.S.A., 1953 Comp., 1957 Pocket Supplement require that two or more corporations file separate bonds with the Liquefied Petroleum Gas Commissions where the said corporations are operated by the same individuals, holding identical offices and percentages of the shares of stock?

CONCLUSION

Yes.

OPINION

ANALYSIS

Section 65-7-10, N.M.S.A., 1953 Comp., 1957 Pocket Supplement provides as follows:

"No license shall be issued pursuant to sections 65-7-1 to 65-7-22, to any nonresident person, firm or foreign corporation who operates a truck or trucks in the wholesale or retail delivery of liquefied petroleum gas in tanks or bottles, or who engages in the filling of bottles with liquefied petroleum gas, or who installs or services containers or equipment used or to be used in connection with said gas, **unless such licensee shall first file with the commission a surety bond** in the sum of two thousand dollars (\$ 2,000) with a bonding company authorized to do business in New Mexico. All such bonds shall provide that the obligor therein will indemnify and pay the state of New Mexico, to the extent of the face amount of such bond, as an aggregate, for all judgments, which may be recovered pursuant to 65-7-18 and 65-7-22 or for the violation of any orders, rules or regulations promulgated by the commission which violations directly affect the liquefied petroleum gas commission of the state of New Mexico. The bonding requirements of this section may be applied by the commission to any resident licensee who upon request is unable to furnish to the commission adequate proof of financial responsibility and ability to respond to damages up to and including two thousand dollars (\$ 2,000)." (Emphasis supplied.)

The above language is clear and self-explanatory. It requires each person, firm or corporation engaged in the handling of liquefied petroleum gas, or in the installation or servicing of containers of equipment used in connection therewith to file a surety bond with the Liquefied Petroleum Gas Commission before being granted a license by the latter. The purpose of the bond is to indemnify the state for the violation of any orders, rules or regulations promulgated by the Commission which directly affect the Commission or the State of New Mexico.

Each of the Corporations contemplated by the question are separate and distinct legal entities regardless of their joint ownership. Each is subject to being licensed by the Commission. It therefore follows that under the wording of the Statute, each is required to file a surety bond with the Commission before being issued a license.