

**Opinion No. 41-3939**

November 3, 1941

**BY:** EDWARD P. CHASE, Attorney General

**TO:** Mr. Gail S. Carter, Chairman New Mexico Public Service Commission Santa Fe, New Mexico

{\*120} File No. 004-2

In your letter of October 31 you direct our attention to Sections 39 and 81 of Chapter 84, Laws of 1941. Section 39 provides for the filing of rate schedules and Section 81 provides for a fee of \$ 1.00 "for filing any rate schedule or amendment thereto."

In view of the provisions of the above sections of the law, you request our opinion as to how the fee provided for should be calculated, that is to say, whether the fee of \$ 1.00 should be charged for **each** rate schedule filed, or whether one fee of \$ 1.00 should be charged for the **entire set** of rate schedules initially filed under Section 39.

From your letter I gather that it is the general practice of utility companies to have separate rate schedules for each separate class of service and that your {\*121} Commission, under rules already adopted, contemplates the utilities filing separate rate schedules for each class of service offered.

It is my further understanding that these rate schedules, in accordance with the rules and regulations adopted by your Commission, are to be initially filed as a part of what is designated in the rules as a "tariff schedule."

After careful study of the language used in the two sections of the law above referred to, I conclude that it was the legislative intent to require a fee of \$ 1.00 to be paid on **each** rate schedule filed with the Commission, else why would the legislature in Section 81 use the language "for filing **any** rate schedule." Every rate schedule filed will deal with a **separate** and **distinct** class of service and I am of the opinion that the \$ 1.00 fee should be charged for every rate schedule filed for **each** separate class of **service** regardless of the fact that all rate schedules on all classes of service may, under the rules adopted by the Commission, be filed as one instrument.

Trusting that the foregoing sufficiently answers your inquiry, I am

By HOWARD F. HOUK,

Asst. Atty. General