



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Olin Culberson, Commissioner
Railroad Commission of Texas
Austin, Texas

Dear Sir:

Opinion No. 0-3854
Re: Can the Comptroller
legally authorize
warrants for payment
of the mentioned ac-
counts rendered to the
Commission under date
of August 6, but which
were incurred prior to
the application for
limitation grant?

This will acknowledge receipt of your letter of
August 7, 1941, requesting the opinion of this department,
as follows:

"Recently there was a grant made by the
Limitation of Payments Board upon the peti-
tion of the Commission dated July 1, 1941,
on page 7 of which, under the sub-title
'Legal and Reference Material,' there was a
'transcript cost, McElroy Case, E. C. Marra,
et al, versus Railroad Commission of \$2,360.00.'
Also in the same sub-head, 5th item, page 7,
there was 'Statement of Facts, Continental Oil
Company versus Railroad Commission, Conoco
Driscoll, \$530.00.' These items were included
in a total of \$30,295.60 and when same was
presented and approved by the Commission for
payment they were returned by the Comptroller
with the statement 'These accounts incur prior
to grant of Limitation Board and not payable
out of grant.'

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"In view of the fact that these items were specifically included in our request, I would like for you to answer the following question:

"QUESTION

"Can the Comptroller legally authorize warrants for payment of these accounts rendered to the Commission under date of August 6th, but which were incurred prior to the application for limitation grant?"

The grant made by the Limitation of Payments Board upon the petition of the Railroad Commission, dated July 1, 1941, was to permit said Railroad Commission to expend monies necessary to adequately perform the functions of said state department from available funds theretofore appropriated and then on hand.

The approval of the application of the Railroad Commission to use such available funds for the designated purpose was not an appropriation by such body but such action on the part of such body was rather a permissive grant to the Railroad Commission allowing it to use the specified monies for the purpose and in the amounts set out in the application. To deny payments of obligations incurred prior to the date of the grant made by the Limitation of Payments Board would render the Railroad Commission powerless to carry out its statutory functions, and the very purpose contemplated by the Legislature in creating the Limitation of Payments Board would, in fact, be defeated.

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You are accordingly advised that it is the opinion of this department that the Comptroller can legally authorize warrant payment of accounts rendered to the Railroad Commission under date of August 6, 1941, but which accounts were incurred prior to the application for limitation grant.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

Edgar W. Gale
Edgar W. Gale
Assistant

EWC:BP

APPROVED AUG 21, 1942

acting *James C. Stegman*
ATTORNEY GENERAL OF TEXAS

APPROVED AUG 21, 1941

Gerard C. Mann
ATTORNEY GENERAL OF TEXAS

