

**Municipal Corporations—Public Service Commission—
Municipal Utilities—Fiscal Year—Cities and Towns—Reports.**

Municipal utility operated by cities and towns under commission-manager form of government should make reports to the public service commission conforming to the fiscal year of such cities and towns which is the calendar year. Municipal utilities operated by other cities and towns are to make reports conforming to their fiscal year which is the period from July 1st to June 30th.

Public Service Commission of Montana,
Helena, Montana.

December 7, 1929.

Gentlemen:

You have requested my opinion whether a municipal utility operated by a city under the commission-manager form of government is required to close the accounts of its water department and render a report to the public service commission on the basis of the fiscal year ending June 30th, under the provisions of Chapter 72, Laws of 1929, amending Section 3886, R.C.M. 1921.

Section 3886 R.C.M. 1921, in its first form was originally enacted as Section 7 of Chapter 52 of the Laws of 1913, the said chapter being an act making the railroad commission a public service commission for the regulation and control of public utilities. This act provided that the accounts of all public utilities should be closed on the 30th day of June, and made no reference to any different date for closing the accounts of municipally owned utilities. In 1919 the section was amended by the enactment of Section 1, Chapter 186, laws of that year, by which it was specifically provided that the accounts of municipal utilities should be closed annually on the 30th day of April and reports should be made to the commission not later than the 15th day of July. At the

time of this amendment the fiscal year for cities and towns not under the commission-manager form of government began on May 1st, and ended April 30th, so that this date coincided with that mentioned in Section 3886 as amended.

The first act relating to commission-manager form of municipal government was enacted in 1917 by the passage and approval of Chapter 157 of the laws of that year, and by Section 105 of that act it was provided that the fiscal year for cities and towns under that form of government should be the calendar year, the law relating to the fiscal year of cities and towns not under the commission-manager form of government being left unchanged. Thus, it will be observed that the close of the fiscal year for cities and towns not under the commission-manager form of government was the same date as the date required by Section 3886 as amended for the closing of the accounts of municipal utilities, but as to the cities and towns not under the commission-manager form of government the date of the close of the fiscal year was at the time different from that mentioned in Section 3886 as amended.

In 1923 the legislature made certain amendments to the laws relating to commission-manager form of government for cities and towns, but left the fiscal year to close December 31st as theretofore provided. It did, however, amend Section 5516 R.C.M. 1921, so that the same declared that the legislation relating to commission-manager form of government should not repeal or modify any provisions of the act of 1913 relating to the public service commission, except "that the annual report relating to the operation of any public utility owned by any municipality operating under this act, to be made to said public service commission, shall conform to the fiscal year of such city or town established by this act."

It was therefore the intention of the legislature as expressly declared by the above quoted part of the law that that part of the act establishing the public service commission which required cities and towns to close the accounts of municipal utilities on April 30th should not apply to municipal utilities operated by cities and towns under the commission-manager form of government, but that the accounts of such utilities should be closed on December 31st, the date of the closing of the fiscal year of such cities and towns.

In 1927 the legislature changed the fiscal year for cities and towns not under the commission-manager form of government so that the same began on July 1st, and ended on June 30th of each year, (Section 5217 R.C.M. 1921 as amended by Section 1 of Chapter 25, Laws of 1927). Evidently, for the purpose of making the date of closing the accounts of municipal owned public utilities conform with the fiscal year of these cities and towns not under the commission-manager form of government, the legislature in 1929 passed Chapter 172 of the laws of that year, amending Section 3886 R.C.M. 1921, by which it changed the date of the closing of accounts of such municipal public utilities from April 30th to June 30th.

As the law now stands, the date of the close of the fiscal year of cities and towns not under the commission-manager form of government is identical with that provided for the closing of the accounts of municipal public utilities as provided for in the act relating to the public service commission and the amendments thereto, which said date is June 30th; but as to those cities and towns under the commission-manager form of government the date of the closing of the fiscal year is December 31st.

At the time of the enactment of Chapter 72 of the Laws of 1929, the legislature had specifically declared that the reports of municipal public utilities of cities and towns under the commission-manager form of government should be based upon the fiscal year of such cities, which was the calendar year, instead of being based upon the period from July 1st to June 30th, which constituted the fiscal year of cities and towns not under the commission-manager form of government and the period mentioned in the laws relating to the public service commission for the closing of the accounts of municipal public utilities. The amendment of Section 3886 by Chapter 72 of the Laws of 1929 did not in any way affect that provision of Section 5516 R.C.M. 1921 as amended by Section 20, Chapter 31, Laws of 1923, which expressly declares that the reports to be made to the public service commission of municipal public utilities operated by cities and towns under the commission-manager form of government shall be made to conform with the fiscal year of such cities and towns which is the calendar year. The effect of the amendment merely changed the date of the closing of the accounts mentioned in said Section 3886 R.C.M. 1921 as amended and there are no words in it that could be construed to give said section a wider application than it had before the passage of Chapter 72 of the laws of 1929 and as amended by said Chapter 72, the said section applies only to those municipal public utilities which are owned and operated by cities and towns not under the commission-manager form of government.

It is therefore my opinion that the reports made to the public service commission of municipal public utilities operated by cities and towns under the commission-manager form of government should conform to the fiscal year of such cities and towns, to-wit, the calendar year; while as to municipal public utilities operated by cities and towns not under the commission-manager form of government the reports should conform to the fiscal year of such cities and towns, to-wit, the period from July 1st to June 30th, which is the same period mentioned in Section 3886 as amended by Chapter 72 of the Laws of 1929.

Very truly yours,

L. A. FOOT,
Attorney General.