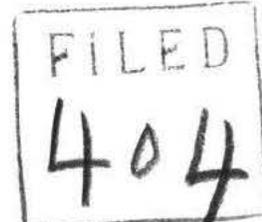


OPINION NO. 404  
Answer by letter  
(Murphy)

November 24, 1965



Honorable William W. Hoertel  
Prosecuting Attorney  
County Court House  
Rolla, Missouri

Dear Mr. Hoertel:

We have your letter of October 28, 1965 in which you request an opinion of this office on the construction of the operating authority granted by the Public Service Commission to a certain motor carrier. The terms of the Public Service Commission certificate granting the authority here in question are as follows:

**COMMON CARRIER, INTRASTATE IRREGULAR:**

With authority to transport commodities in bulk in dump trucks between all points and places within 50 miles of Sweet Springs, Missouri, also between all points in Missouri for road, bridge, revetment, dike, levee and airport contractors only.

Such service is authorized irrespective of the location of such points on the routes of regular route carriers.

We understand from your letter that the holder of the above quoted certificate has been engaged in hauling asphalt for a contractor who is presently occupied in the construction of a private parking lot.

The power to regulate the conduct of the intrastate motor carrier business and to issue certificates of convenience and necessity therefor is lodged by Missouri law solely in the Public Service Commission (See generally Chapter 387 RSMo 1959). For this reason we have thought it advisable to consult with the Commission on the question which you present. We have been furnished with a copy of a letter from the General Counsel of the Commission giving his opinion as to the construction of the above quoted authority. The relevant portion of that letter is as follows:

Honorable William W. Hoertel

"[I]t would seem that the Trucking Company has authority to haul for a contractor in the construction of roads anyplace in the State of Missouri but it does not appear that their authority would cover a contract for the construction of a parking lot."

Since this certificate was issued by the Public Service Commission we are inclined to defer to the interpretation placed upon it by the Commission's Chief Counsel. Further, this interpretation is in accordance with the general rule expressed by the maxim "inclusio unius est exclusio alterius", that is, the inclusion of one person or thing is the exclusion of all others.

For these reasons I share the view of the Public Service Commission that the operation here in question is in excess of the quoted certificate of authority.

Very truly yours,

NORMAN H. ANDERSON  
Attorney General