

**OPINION
52-143**

February 6, 1952 (OPINION)

PUBLIC SERVICE COMMISSION

RE: Powers of, Location of Terminals

Re: Sec. 49-0204, 49-1808.

This is directed to you in response to your request for an opinion on the question: Does the Public Service Commission have jurisdiction to determine the location of depot or terminal vicinity of a common motor carrier within a community which it serves by virtue of authority granted by said Commission?

The Public Service Commission possesses only the authority conferred on it by State constitution and statutes. Lyons v. Otter Tail Power Co., 68 N.D. 403, 280 N.W. 192.

Section 49-0204, N.D.R.C. 1943, defines the Commission's power to regulate services: "Whenever the Commission shall find, after hearing, that the rules, regulations, practices, equipment, appliances, facilities, or service of any public utility, * * * are unjust, unreasonable, unsafe, improper, inadequate, or insufficient, the Commission shall determine the just, reasonable, safe, proper, adequate, or sufficient rules, regulations, practices, equipment, appliances, facilities, service, or methods to be observed, furnished, constructed, enforced, or employed, and, after hearing, shall fix the same by its order, rules, and regulations for the performance of any service or the furnishing of any commodity and render such service within the time and upon the conditions provided in such rules."

Section 49-1808 provides "the Commission shall supervise and regulate all common motor carriers of property or passengers as defined in Section 49-1801 and after hearing thereon shall: * * *

3. Regulate the facilities, accounts, service, and safety of operations of each such carrier; * * * and
8. Have power and authority by general order or otherwise to prescribe rules and regulations in conformity with this chapter applicable to any law of such common motor carriers and to do all things necessary to carry out and enforce the provisions of this chapter."

Insofar as the location of depot and terminal facilities of common motor carriers is affected with a public interest, the Commission has jurisdiction thereof. However, that specific location of a depot or terminal facilities within a certain community is, in the opinion of this office, a function of carrier management. It follows, therefore, that the jurisdiction of the Commission as to such locations is limited to question of public service and safety.

I trust that this satisfactorily answers your question.

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Attorney General