

**Opinion No. 52-5564**

July 16, 1952

**BY:** JOE L. MARTINEZ, Attorney General

**TO:** State Corporation Commission Santa Fe, New Mexico

{\*275} Recently your inquired as to the propriety of the entry of an order by the commission in connection with the matter of consolidating all authority held by Jeffries-Eaves, Inc., into one certificate of public convenience and necessity. It appears that the commission is attempting to do this with all motor carriers.

The question that arises in connection with this particular item is the fact that apparently the original certificate of public convenience and necessity issued to Contract Trucking Company, Jeffries-Eaves predecessor, did not include the words "Oilfield equipment and supplies (as defined in Order issued by the State Corporation Commission the 17th day of September, 1947)." It appears, however, that an amendment was made to the certificate on May 4, 1948, which amendment inserted this language in the certificate. The question possibly arises whether the commission was justified in amending the certificate at that time, since it appears the original order issued with respect to the certificate did not authorize the transportation of such commodities.

This question need not be considered by the commission in the entry of its proposed order for the reason that regardless of any lack of an order prior to May 4, 1948, authorizing the transportation of such commodities, the amendment of May 4, 1948, to the certificate was in itself an order of the commission, permitting the transportation of these items. As such it was subject to review within the time permitted by law and no review having been taken it is the final order of the commission and is in full force and effect.

The commission has the right and the duty to continue this order in effect in its new order directing the issuance of a new certificate pursuant to the order to be made.

Your file on Jeffries-Eaves, Inc., is returned herewith.