

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Rule and Regulation No. 199
Public Service Commission, on)
its own motion, seeking to) ORDER OPENING DOCKET AND
amend Title 291, Chapter 3,) SEEKING COMMENT
Motor Carrier Rules and)
Regulations, to amend)
provisions of the rules.) Entered: December 13, 2016

BY THE COMMISSION:

O P I N I O N A N D F I N D I N G S

The Nebraska Public Service Commission ("Commission") hereby opens the above-captioned docket, on its own motion, seeking to amend certain provisions of the Commission's rules and regulations for Motor Carriers.

The Commission's Motor Carrier Rules and Regulations were recently amended in their entirety and made effective on November 23, 2016. However, issues arose late into the rulemaking docket which the Commission determined should be dealt with in a later rulemaking.¹ On December 15, 2016, the Commission entered an order interpreting Rules 011.01A and 011.01B regarding the ability for taxicabs to multi-load passengers on one trip.² Additionally, the Commission entered an order on June 28, 2016 releasing a rule interpretation of the definition of open class carriers.³ In each order, the Commission stated that it would address each interpretation in a future rulemaking proceeding.

¹ Rule and Regulation No. 182 *In the Matter of the Commission, on its own motion, seeking to amend Title 291, Chapter 3, Motor Carrier Rules and Regulations, to rewrite the chapter in its entirety.* Order Adopting Fifth Set of Rules and Issuing Certificate of Adoption (May 10, 2016).

² Application No. FC-1362 *In the Matter of Happy Cab Company d/b/a Checker Cab Co., Happy Cab Co., and Yellow Cab Co., Valor Transportation d/b/a Safeway Cab, and DonMark, Inc., d/b/a Cornhusker Cab Company vs. Servant Cab Company, LLC, d/b/a Yellow Cab Company and Capital Cab Company.* Order Closing Docket (December 15, 2015).

³ Application No. PI-205 *In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate transportation services which may be provided by open class carriers as defined by Neb. Admin. Code, Title 291, Ch. 3 § 010.01C.* Order Releasing Rule Interpretation (June 28, 2016).

Based on the above, the Commission therefore opens this rulemaking docket and releases the following proposed amendments for written comment:

Amend Title 291, Chapter 3, Section 003.01(D) to read as follows:

003.01(D) Open class service shall consist of all of the following elements: (1) the business of carrying passengers for hire by a vehicle (2) along the most direct route between the points of origin and destination or along a route under the control of the person who hired the vehicle and not over a defined regular route (3) on a prearranged and not on a demand basis (4) at a mileage based, per trip fare, or an hourly rate.

Amend Title 291, Chapter 3, Section 004.04(B) (ii) to read as follows:

004.04(B) (ii) On passenger carrying units, at the front or rear of the vehicle, and easily legible from the front or rear.

Amend Title 291, Chapter 3, Section 005.02 to read as follows:

005.02 Medical Certificate: Each motor carrier shall have on files a certificate of physical examination signed by a licensed physician or a licensed physician ~~physician's~~ assistant for every driver in its employment, attesting that the physician or licensed physician ~~physician's~~ assistant has examined the driver to meet the requirements in 005.01. Such certification shall be renewed no less than every two years. Physical certificates obtained pursuant to federal regulations shall meet the requirements of this section.

Amend Title 291, Chapter 3, Section 006.05(A) to read as follows:

006.05(A) All liability insurance filings shall be either Form E, entitled: Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance.

Amend Title 291, Chapter 3, Section 010.02(D) to read as follows:

010.02(D) The number of passengers carried by a vehicle shall not exceed seven persons, including the driver, or the rated capacity of such vehicle as prescribed by the maker of the vehicle, whichever is smaller. Except for transportation provided under contract with the Nebraska Department of Health and Human Services, whenever ~~Whenever~~ any vehicle is occupied by a ~~fare paying~~ passenger or passengers, the operator shall not permit any other person to occupy the vehicle except with the consent of the first fare paying passenger or passengers. In the event that consent is not received, the driver shall not pick up any additional passengers. Passengers shall be informed of this provision by a card, posted inside the vehicle, stating the schedule of rates and charges for the vicinity in which the vehicle is operated and in the following form:

"FOR YOUR PROTECTION:

You, as the first passenger in this taxicab, are the one to decide who shall ride with you. Unless it is at your request or with your consent, this cab driver is prohibited by law from accepting additional passengers. Schedule of rates authorized for taxicabs operating in (Name of Town) is (Copy from commission order setting rates for that vicinity).

(Name of Company)"

010.02(D)(i) Service shall not be denied to the first passenger or passengers due to refusal to grant consent to transport additional passengers on the trip.

010.02(D)(ii) If several individuals that have boarded a taxicab at one location choose to be transported to a single common destination, the driver of the taxicab shall charge the party at rates approved by the commission as if the passengers are all members of the same party.

Amend Title 291, Chapter 3, Section 012.01 to read as follows:

012.01 Applicability of Rules: The rules and regulations found in Chapter 3, Sections 001 through 011 ~~015~~ of Title 291 of the Nebraska Administrative Code shall not apply to transportation network companies. If there is a conflict between Chapter 3, Sections 001 through 011 ~~015~~ of Title 291 of the Nebraska Administrative Code and these rules regarding the regulation of transportation network companies, these rules and regulations

shall apply.

All other sections remain unchanged.

The Commission intends to schedule a public hearing on the proposed rules after public comments are received.

Interested parties may file written comments with the Commission on or before **3:00 p.m. CDT, Friday, January 13, 2017**. Parties filing comments should file one (1) original, five (5) paper copies and one (1) electronic copy in Word format emailed to john.monroe@nebraska.gov and jamie.reyes@nebraska.gov.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the proposed amendments to Title 291, Chapter 3, Motor Carrier Rules and Regulations be, and are hereby, open for public comment.

IT IS FURTHER ORDERED that comments on the proposed amendments shall be filed by interested parties on or before 3:00 p.m. CDT, Friday, January 13, 2017. Parties filing comments should file one (1) original, five (5) paper copies and one (1) electronic copy in Word format emailed to john.monroe@nebraska.gov and jamie.reyes@nebraska.gov.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 13th day of December, 2016.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald L. Vop
Cystal Knowles

//s//Frank E. Landis
//s//Tim Schram

Tim Schram
Chairman

ATTEST:

Sandra King
Deputy Director