

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the ) APPLICATION NO. B-1683,  
Application of CUSA ES, L.L.C. ) SUPPLEMENT 1  
seeking authority as a contract )  
carrier of railroad train crews )  
and their baggage in open class ) PLANNING CONFERENCE ORDER  
service by van between points )  
in the state of Nebraska over )  
irregular routes. HHS )  
Designation: No. ) ENTERED: NOVEMBER 19, 2007

BY THE HEARING OFFICER:

On September 16, 2006, an application was filed by CUSA ES, L.L.C., (Applicant), of Bismarck, North Dakota, seeking authority as a passenger carrier pursuant to Neb. Rev. Stat. Section 75-310. Protests were timely filed by Brown's Crew Car of Wyoming, Inc., d/b/a Armadillo Express. The Applicant filed a Petition for Declaratory Ruling on the nature of railroad crew transportation. A Stay of Proceedings was granted by the Commission on November 14, 2006. The Commission entered an Order lifting the Stay in this matter on November 6, 2007, and ordered that this matter be set for hearing.

In order to process the application, the Commission staff held discussions with counsel for the parties. As a result of these discussions, several issues were decided. Therefore, this order serves to memorialize those decisions and to provide a timeline for proceeding in this docket.

Deadline	Event
<b>November 15, 2007</b>	All written discovery served. No further written discovery between the parties shall take place after this date.
<b>November 30, 2007</b>	Answers to Interrogatories and Responses to Request for Production and Responses to Request for Admissions and witness lists are due. Witness lists exchanged between the parties and filed with the Commission

**December 3, 2007** All depositions completed. If parties seek to settle, settlement achieved, and Commission notified to cancel hearing. Hearings canceled after this date are subject to applicable hearing fee.

**December 10, 2007** Any requests for subpoenas shall be filed in writing with the Commission. No requests for subpoenas will be accepted after this date.

**December 13, 2007** Any requests for a continuation or cancellation of a video conference hearing must be made to the Commission at least 48 hours prior to the start of the hearing. The party failing to give timely notification will be responsible for payment of all charges incurred as a result of improper notification. All fees incurred must be paid before future hearings will be scheduled.

Finally, the hearing in Application No. B-1683, Supplement 1, will be held on **December 17, 2007**, at 10:00 a.m. in the Commission hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

Any remaining pre-hearing issues that the parties would like to address should be brought before the Commission prior to hearing.

O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer in the above-captioned matter that the foregoing schedule for submission and service of the items discussed above is hereby adopted.

IT IS FURTHER ORDERED that a hearing in Application No. B-1683, Supplement 1, will be held on **December 17, 2007** at 10:00 a.m. in the Commission hearing Room, 300 The Atrium, 1200 N Street, Lincoln, Nebraska.

MADE AND ENTERED at Lincoln, Nebraska, this 19<sup>th</sup> day of November, 2007.

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BY:

*Paul J. Jankowski*

HEARING OFFICER