

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. B-1999
of Mike's Capital Cab LLC,	)	
Lincoln, seeking to acquire,	)	
through transfer, the authority	)	ORDER GRANTING TRANSFER OF
held by Servant Cab Company,	)	AUTHORITY AND CANCELLING
LLC, d/b/a Yellow Cab Company	)	CERTIFICATE NO. B-1581
and Capital Cab Company,	)	
Lincoln, in Certificate B-1581.	)	
	)	Entered: October 8, 2019

BY THE COMMISSION:

By application filed June 11, 2019, Mike's Capital Cab, LLC ("Applicant"), Lincoln, seeks approval of the acquisition of the operating rights and authority granted to Servant Cab Company, LLC, d/b/a Yellow Cab Company and Capital Cab Company ("Servant Cab"), Lincoln, in Certificate B-1581 which authorizes:

Service and Territory Authorized:

Transportation of passengers and their baggage by taxicab between points in Lincoln and a twenty-five (25) mile radius thereof, including, but not limited to, the communities of Crete, Firth, Garland, Greenwood, Hallam, Milford, Panama, Seward, and Wahoo, and between points in said area on the one hand, and, on the other hand, points in Nebraska over irregular routes. The transportation of passengers and their baggage originating outside of Lincoln and a twenty-five (25) mile radius thereof is not authorized, except for a continuation of a trip originating in Lincoln and a twenty-five (25) mile radius thereof, and a return to a destination in Lincoln and a twenty-five (25) mile radius thereof and shown on the same billing document as a continuation of the originating trip.

Although the Certificate was silent as to HHS Designation, Servant Cab provided transportation services for the Nebraska Department of Health and Human Services. Notice of the application was published in The Daily Record, Omaha, Nebraska, on July 3, 2019. The Commission granted Applicant's request for temporary operating authority on July 16, 2019, allowing

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Application to operate under Servant Cab's authority for ninety (90) days.<sup>1</sup> No protests were filed.

In addition to the above-captioned application, Applicant's owner, Mr. Mike Deal, is also seeking approval of the acquisition of the operating rights and authority to Golden Plains Services, Inc. d/b/a GPS Transportation ("GPS"), Lincoln, Certificate B-1829, in Application No. B-1998. Mr. Deal was granted temporary operating authority of GPS in Application No. B-1998 on July 16, 2019.<sup>2</sup>

Due to the size of the acquisitions, the Commission determined that a hearing was necessary. Hearing on this docket was held on September 24, 2019 at the Commission, concurrently with the hearing on Application No. B-1998. Ms. Jamie Reyes and Mr. Dillon-Keiffer-Johnson, Commission Law Clerk, appeared on behalf of the Commission. No other attorneys entered an appearance.

#### E V I D E N C E

Mr. Mike Deal, owner and member of Mike's Capital Cab, LLC, made a statement on behalf of Applicant. Mr. Deal founded Mike's Handy Van approximately five years ago.<sup>3</sup> Prior to that, he was the director of transportation for Tabitha Healthcare Services ("Tabitha"), a 215-bed facility located in Lincoln, Nebraska. Mr. Deal testified that during his time at Tabitha he oversaw all of the transportation matters, including the vehicles, the scheduling of service, and the hiring of drivers.<sup>4</sup> Mr. Deal testified that in his last year at Tabitha, his facility was the subject to a federal audit of the State of Nebraska which left federal investigator's "thoroughly impressed" with how his department was maintained.<sup>5</sup>

<sup>1</sup> See Application B-1990, *In the Matter of the Application of Mike's Capital Cab LLC, Lincoln, seeking to acquire, through transfer, the authority held by Servant Cab Company, LLC, d/b/a Yellow Cab Company and Capital Cab Company, Lincoln, in Certificate No. B-1581, Order Granting Temporary Authority* (Entered July 16, 2019).

<sup>2</sup> See Application B-1998, *In the Matter of the Application of Mike's Transportation Services, LLC, Lincoln, seeking to acquire, through transfer, the authority held by Golden Plains Services, Inc., d/b/a GPS Transportation, Lincoln, in Certificate B-1829, Order Granting Temporary Authority* (Entered July 16, 2019).

<sup>3</sup> Hrg. Transcr. 9:9 - 9:10 (September 24, 2019).

<sup>4</sup> Id. 9:19 - 9:21.

<sup>5</sup> Id. 10:5 - 11:12.

Mr. Deal explained that during his time working at Tabitha it became clear to him that there was a need for better transportation services. As a result, he decided to quit his position at Tabitha and open his own transportation company.<sup>6</sup> Mr. Deal testified that he decided to limit his service area to Lancaster County because he did not know whether he would have the capability to provide transportation services in other areas throughout the State.<sup>7</sup> Mr. Deal explained that as time went on, various experiences with clientele highlighted a need for transportation services outside of his operating authority that he believed he was more prepared to handle than when he started.<sup>8</sup>

Mr. Deal testified that he applied to expand his service territory to statewide operating authority.<sup>9</sup> Mr. Deal testified that his application was protested, but reached settlement with all Protestants, except Golden Plain Services ("GPS") and owner Kirby Young, that would enable him to operate in the Omaha area and some areas surrounding Lincoln.<sup>10</sup> Mr. Deal testified Mr. Young inquired whether Mr. Deal would be interested in purchasing his businesses. Mr. Deal explained that he agreed because it would allow him to provide the type of service he was attempting to provide by expanding the operating authority of Mike's Handy Van.<sup>11</sup> Mr. Deal further explained he hired an accountant and an attorney that specializes in business purchases to assist him in this transaction.<sup>12</sup>

Mr. Deal stated that all GPS's equipment has been moved into a new building for the new businesses.<sup>13</sup> Mr. Deal testified that he treats each client as family and he intends to bring that same compassion to the two new companies.<sup>14</sup> He further explained he is proud to have his name on every vehicle and he will continue to ensure each company under his ownership adheres to the high standard he set with Mike's Handy Van.<sup>15</sup> Mr. Deal testified he is aware of the current nature of the taxicab business, and that some people are not able to afford taxicabs and cannot use Uber because of how the rides are scheduled. Mr.

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<sup>6</sup> *Id.* 11:13 - 14:22.

<sup>7</sup> *Id.* 15:14 - 15:23.

<sup>8</sup> *Id.* 15:24 - 18:12.

<sup>9</sup> *Id.* 18:18 - 18:20.

<sup>10</sup> *Id.* 18:21 - 19:3.

<sup>11</sup> *Id.* 19:7 - 20:12.

<sup>12</sup> *Id.* 20:13 - 20:23.

<sup>13</sup> *Id.* 21:5 - 21:9.

<sup>14</sup> *Id.* 22:10 - 24:7.

<sup>15</sup> *Id.* 24:7 - 24:12.

Deal testified that to combat such concerns he plans to lower the cost of his taxicabs to make his rates the best in the State.<sup>16</sup> Additionally, Mr. Deal plans to move away from IntelliRide tablets and incorporate a more dynamic scheduling system on the open class side to allow more flexibility in changing scheduled trips.<sup>17</sup> Mr. Deal also described how the dispatch system for Capital Cab uses radio dispatch and how he could foresee implementing some type of dynamic scheduling to in that operation as well.<sup>18</sup>

In response to questions from Commissioner Schram concerning fleet size, Mr. Deal testified that his current fleet of four vehicles under Mike's Handy Van will increase to 57 total vehicles after the transfer, some which are not functional.<sup>19</sup> When asked about operational improvements, Mr. Deal stated that he does not plan to keep vehicles for parts but instead will buy a new part or even a replacement vehicle. Responding to later concerns about operating a much larger fleet of vehicles with the same hands-on approach utilized with Mike's Handy Van, Mr. Deal explained that he has no concerns due to his family's support and expertise brought to the business.<sup>20</sup> Upon questions from Commission staff, Mr. Deal stated he plans to upgrade each vehicle in the future. He explained some of the vehicles included in the transfer had over 400,000 miles and he has already started to look into purchasing wheelchair accessible vehicles similar to those used in Mike's Handy Van, which can accommodate a variety of passengers.<sup>21</sup> Mr. Deal also explained that the mechanic was retained from the prior ownership, and will be in charge of vehicle maintenance.<sup>22</sup> Finally, Mr. Deal indicated that he would have the capability to expand both fleets should the need arise.<sup>23</sup>

Regarding management, Mr. Deal testified that he has maintained the same management staff employed under the previous ownership. He further explained he has retained the services of the mechanic and the drivers, as well as rehiring some drivers who previously worked for the companies.<sup>24</sup> Upon questioning about

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16 *Id.* 24:13 - 25:12.

17 *Id.* 29:17 - 31:19.

18 *Id.* 64:8 - 65:2.

19 *Id.* 25:20 - 26:5.

20 *Id.* 59:9 - 62:21.

21 *Id.* 69:6 - 70:14.

22 *Id.* 70:18 - 70:23.

23 *Id.* 46:7 - 46:13.

24 *Id.* 27:11 - 27:20.



the management structure, Mr. Deal testified he would be general manager in addition to his ownership position. Mr. Deal further testified that he will have staff to handle billing and scheduling trips for the Nebraska Department of Health and Human Services, driver locations, and the management of the taxicab drivers.<sup>25</sup> Later, Commissioner Rhoades expressed concern in the fact that the previous staff and management structure would remain the same under Mr. Deal's ownership because of previous management concerns. Mr. Deal explained that under the previous structure of the companies the decision-making was centralized to the previous owner, and that the transitioning staff and management are aware of the reputation garnered by the previous ownership and are excited about the opportunities presented by Mr. Deal's ownership.<sup>26</sup> Commissioner Rhoades also inquired whether Mr. Deal would continue to operate GPS as an on-demand taxi service. Mr. Deal testified that type of service will cease. He stated that his understanding is that an open class carrier can only perform pre-arranged transportation and if he were to become aware that one of his drivers were offering on-demand service he would take action. Mr. Deal explained that such service could be offered by Mike's Capital Cab, but not by Mike's Transportation Service or Mike's Handy Van.<sup>27</sup>

Regarding consumer complaints, Mr. Deal indicated it would be his responsibility.<sup>28</sup> He explained that he would first gather all the information he could from both the driver and the customer and then examine the facts holistically to any other information accessible. Mr. Deal further explained that each vehicle has a tablet that provides time stamps and GPS tracking that enables him to go back and investigate where a particular vehicle was located or how fast that vehicle was traveling at any given point. Finally, once he gathered all the relevant information, he would take appropriate action, whether that be apologizing to the customer, coaching or teaching the driver ways to more appropriately handle situations, or adjusting the driver's schedule so as to not over encumber their schedule.<sup>29</sup>

Commissioner Ridder then questioned Mr. Deal regarding the hours of operation of the companies. Mr. Deal indicated that his responsibilities to the companies cannot be captured by

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<sup>25</sup> *Id.* 28:2 - 29:1.

<sup>26</sup> *Id.* 33:3 - 35:14.

<sup>27</sup> *Id.* 37:3 - 38:19.

<sup>28</sup> *Id.* 41:13 - 41:19.

<sup>29</sup> *Id.* 38:25 - 40:17.

business hours and that he has to be ready to act at a moment's notice so he could not provide a concrete period of time that he would operate.<sup>30</sup>

Commissioner Schram questioned Mr. Deal regarding the type of training his open-class drivers will have in order to appropriately handle the situations that arise with the transportation of juveniles and other susceptible populations. Mr. Deal stated that his wife recently left an employment position with Lincoln Public Schools where she was a sim para and a special education para. He further explained that Mike's Handy Van does not provide transportation services to this type of population, but if Mike's Transportation Service does, then his wife would take lead. Mr. Deal stated that his wife has access to resources through her time at Lincoln Public Schools that will be able to assist in finding any type of training his drivers would need for this type of transportation.<sup>31</sup>

Responding to Commissioner questioning about financial capabilities, Mr. Deal stated that he has a revolving credit line based on accounts receivable.<sup>32</sup> Mr. Deal further explained that the earnings from the purchased companies would be more than enough to enable him to repay his debt.<sup>33</sup> Mr. Deal further explained that his operation of the companies will not be based on monetary gain, but rather on what is the right thing to do. For example, during his short time operating Mike's Transportation Services, he has become aware of the lack of service provided in the western part of the State and he intends to have drivers stationed to service that area to meet that need.<sup>34</sup> Mr. Deal testified that he has not determined whether his taxi drivers will be employees or independent contractors moving forward, and currently operates under the previous Servant Cab model.<sup>35</sup> Mr. Deal stated he understood that if he were to change the model of how he classifies his staff that requires him to make tax withholdings and remittances that would change his financial landscape.<sup>36</sup>

Responding to Commissioner questioning about the flow of information from the HHS brokers to Mr. Young then to himself,

30 *Id.* 41:20 - 43:11.

31 *Id.* 43:20 - 44:20.

32 *Id.* 31:23 - 32:15.

33 *Id.* 46:22 - 48:6.

34 *Id.* 36:1 - 36:24.

35 *Id.* 45:4 - 46:6.

36 *Id.* 58:17 - 59:3.

Mr. Deal further testified that he does not have direct financial access during this transition period, but will have all financial documentation and control once the transition is complete.<sup>37</sup> Mr. Deal stated that both his accountant and his attorney have been able to access all financial documentation from Mr. Young. He further explained that he has been in touch with the brokers and he receives information that details the number of trips and the reimbursement rates.<sup>38</sup> Mr. Deal also explained that he does not intend to include Mike's Capital Cab in the contracts with the three HHS brokerage systems, stating that the medical transportation is covered by Mike's Transportation and Mike's Handy Van and the Cab portion will focus on everyday-type transportation. Mr. Deal stated that he intends to operate an affordable cab company that can supplement the medical transportation he provides through his other companies.<sup>39</sup>

Commission staff inquired about Mr. Deal's ability to track his driver's hours of service compliance. Mr. Deal explained that the tablets set each driver's service time and the driver would not receive the option to accept the trip if it does not fit within said driver's service time.<sup>40</sup> Commission staff then questioned Mr. Deal regarding the new property. Mr. Deal clarified that he is leasing the building, which will serve as both an office and garage for the time being, but in the future he will look for additional space. He stated he wants to increase the number of drivers he has throughout the state to meet the demand for open class service.<sup>41</sup>

Commission staff offered Exhibits 1 through 5, which were received into evidence.

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

Mike's Capital Cab, LLC, Lincoln, seeks authority to acquire, through sale and transfer, the authority held by Servant Cab Company, LLC, d/b/a Yellow Cab Company and Capital Cab Company in Certificate B-1581. Applications for transfer by sale are governed by Neb. Rev. Stat. § 75-318, which states that the Commission may enter an Order authorizing the purchase of

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37 *Id.* 53:3 - 55:24.

38 *Id.* 56:5 - 57:6.

39 *Id.* 65:8 - 66:1.

40 *Id.* 66:2 - 66:19.

41 *Id.* 66:21 - 68:20.

properties or certificates if the Commission finds that the transaction proposed will be consistent with the public interest and does not unduly restrict competition and that the applicant is fit, willing, and able to properly perform the proposed service.<sup>42</sup>

When considering fitness, the Commission must determine whether an applicant is fit, willing and able to properly perform the service of a carrier by motor vehicle and to conform to lawful requirements and rules and regulations of the Commission. The Commission finds that Applicant has met the fitness test of § 75-318. Mr. Deal currently operates Mike's Handy Van, which has provided open class services in Lancaster County since 2015 and has been in good standing with the Commission. Applicant's testimony provided the Commission ample evidence of his overall fitness to properly perform the proposed services. Applicant has a long history in the transportation industry and experience with Commission requirements. Although the Commission may have concerns as to Applicant's financing of this acquisition, Applicant testified confidently that there will be no financial issues with loan repayment and reinvestment into Mike's Capital Cab. Applicant works with a Certified Public Accountant for Mike's Handy Van, and that work will now include maintaining a financial accounting for Mike's Capital Cab, LLC.

The Commission also finds that the proposed transfer is consistent with the public interest and does not unduly restrict competition. Servant Cab has provided transportation in Lincoln and the surrounding areas for several years, and Applicant has shown his commitment to continuing and improving those services. Proposed vehicle upgrades and operational changes will bode well for the quality of the services provided in the area. Additionally, no evidence was presented that this transfer of taxicab authority would impair the operations of any existing carriers or that such transfer would not be in the public interest. Therefore, the transfer should be granted.

After due consideration, the Commission finds that the application of Mike's Capital Cab, LLC, Lincoln, should be granted. A Certificate of Public Convenience and Necessity should be issued in B-1999 authorizing the following operations:

CERTIFICATE AUTHORIZED

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<sup>42</sup> Neb. Rev. Stat. § 75-318(3) (Cum. Supp. 2016).

Service and Territory Authorized:

COMMON: Transportation of passengers and their baggage by taxicab between points in Lincoln and a twenty-five (25) mile radius thereof, including, but not limited to, the communities of Crete, Firth, Garland, Greenwood, Hallam, Milford, Panama, Seward, and Wahoo, and between points in said area on the one hand, and, on the other hand, points in Nebraska over irregular routes. The transportation of passengers and their baggage originating outside of Lincoln and a twenty-five (25) mile radius thereof is not authorized, except for a continuation of a trip originating in Lincoln and a twenty-five (25) mile radius thereof, and a return to a destination in Lincoln and a twenty-five (25) mile radius thereof and shown on the same billing document as a continuation of the originating trip.

RESTRICTIONS: The transportation of railroad train crews and their baggage is not authorized. HHS

Designation: Yes

The Commission also finds that Certificate No. B-1581 held by Servant Cab Company, LLC, d/b/a Yellow Cab Company and Capital Cab Company should be simultaneously cancelled.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1999 be, and is hereby, granted; and that upon compliance with the terms and conditions set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Mike's Capital Cab, LLC, Lincoln, in Application No. B-1999, authorizing the operations set forth in the foregoing findings; and that to avoid a lapse of authority, the Certificate of Public Convenience and Necessity issued in Application No. B-1581 shall be revoked and cancelled simultaneously with the issuance of a Certificate of Public Convenience and Necessity in Application B-1999.

IT IS FURTHER ORDERED that Applicant shall not be issued the Certificate of Public Convenience and Necessity authorized by the Commission unless and until Applicant has fully complied, within a reasonable time from the effective date of this Order, with Neb. Rev. Stat sections 75-305 (fees), 75-307 (insurance),

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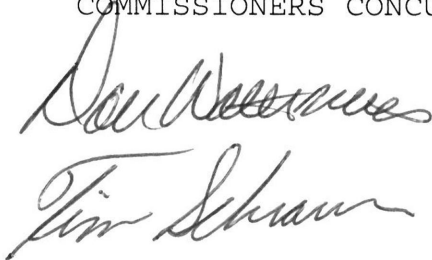
and 75-308 (rates), and with the rules and regulations of the Commission, and if upon expiration of such time Applicant has not complied with such terms and conditions, this Order shall, after reasonable notice to Applicant, be of no further force and effect.

IT IS FURTHER ORDERED that Applicant shall not conduct operations until a Certificate of Public Convenience and Necessity is issued.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 8<sup>th</sup> day of October, 2019.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Two handwritten signatures in cursive script, one above the other, representing the concurring commissioners.

  
Chair

ATTEST:

  
Executive Director