

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. B-1984
Application of Hope Park)	
Transport, LLC, Lincoln,)	
seeking authority as a)	
contract carrier in Nebraska)	
intrastate commerce in the)	
transportation of clients by)	
van in open class to and from)	
medical appointments,)	
behavioral health appointments)	
and/or day center programs)	
within Lancaster County)	ORDER GRANTING APPLICATION
pursuant to service contracts)	
with Prescott Place,)	
Integrated Behavioral Health)	
Services, and Bel Air Homes.)	
RESTRICTIONS: The)	
transportation of railroad)	
train crews and their baggage)	
is not authorized. HHS)	
Designation: Yes - limited to)	
clients transported pursuant)	
to contract.)	Entered: November 13, 2019

BY THE COMMISSION:

B A C K G R O U N D

On September 25, 2018, Hope Park Transport, LLC, ("Applicant") Lincoln, filed an application seeking authority as a Contract Carrier in Nebraska intrastate commerce in the transportation of clients by van in open class to and from medical appointments, behavioral health appointments, and/or day center programs within Lancaster County pursuant to service contracts with Prescott Place, Integrated Behavioral Health Services, and Bel Air Homes. Transportation of railroad crews and their baggage is not authorized. HHS designation is yes, but limited to clients transported pursuant to the contract. Notice of the Application was published in The Daily Record, Omaha, Nebraska, on January 24, 2019. No Protests were received in this matter.

The Commission elected to have a hearing on its own motion to hear more about the services that Applicant was seeking to provide under the proposed contracts between Prescott Place, Integrated Behavioral Health Services, and Bel Air Homes. The Hearing Officer

entered an order scheduling hearing on May 8, 2019. On May 29, 2019, a hearing was held in the Commission Hearing Room, Lincoln. Ms. Ellie Rohr and Ms. Jamie Reyes appeared on behalf of Commission Staff. Mr. Jereme Hill and Mr. Jeromie Luginbill testified on behalf of Applicant, and were not represented by legal counsel.

E V I D E N C E

First, Mr. Jereme Hill made a statement and answered questions on behalf of the Applicant. Mr. Hill has operated Prescott Place, an assisted living facility in Lincoln, Nebraska, for the past eleven years.¹ Mr. Hill noted he and Mr. Jeromie Luginbill are members of Hope Park Transport, LLC ("Hope Park").² Mr. Hill explained Hope Park was created in order to transport clients of Prescott Place, Bel Air Homes, and Integrated Behavioral Health Services ("IBHS") to programs and medical appointments.³ Mr. Hill noted the idea to form Hope Park arose from a meeting with officials from The Office of the Public Counsel, who advised him that in order for his facility to make more money, he either had to create a day-care program or provide transportation. Mr. Hill stated that because IBHS and Prescott Place are not competitors, working together to provide transportation services for their clients would increase the overall wellness of their clients and ease the burdens on administrators of each facility.⁴

Mr. Hill testified that it takes roughly forty minutes to arrange a trip through Intelliride, and then if a trip needs to be rescheduled it takes an additional forty minutes.⁵ Mr. Hill testified it is Hope Park's plan to reduce the amount of time required to schedule trips and to provide more efficient transportation overall.⁶ He noted Hope Park will have two drivers and two vans. The drivers will be trained to assist with mental health patients and will wait with the clientele at their appointments as much as possible. The drivers also will help schedule trips.⁷ Mr. Hill testified that currently 46 individuals are transported to programs and eight are transported to medical

¹ Hrg. Transcr. 9:2-12, May 29, 2019.

² *Id.* at 9:13-24.

³ *Id.* at 9:25 - 10:8.

⁴ *Id.* at 27:14 - 28:3.

⁵ *Id.* at 11:11-15.

⁶ *Id.* at 11:15-16.

⁷ *Id.* at 11:17-25.

appointments on a daily basis between all facilities.⁸ Mr. Hill noted it is important for Hope Park to begin by only providing contracted service with the above mentioned entities before expanding with new contracts.⁹

When asked about current transportation services, Mr. Hill explained IBHS is currently providing transportation services under a provider contract.¹⁰ Mr. Hill stated he currently uses the Intelliride system and Hope Park would also use Intelliride upon grant of its Application. He explained Hope Park would be guaranteed to receive preference from Intelliride because it would provide round-trip transportation as opposed to the one-way service that the other carriers provide.¹¹ Additionally, Mr. Hill stated that another assisted-living facility is currently providing transportation of Prescott Place and Bel Air clients to a day program, and that Hope Park plans to provide that transportation service.¹²

Upon questioning about his familiarity with Commission rules and regulations regarding background checks and insurance, Mr. Hill testified he has had background checks completed.¹³ He further testified that, to his knowledge, the insurance policy for a vehicle with no greater than fifteen passengers is one million dollars and the policy minimum for vehicles with sixteen or more passengers is five million dollars.¹⁴

Mr. Hill also indicated he intends to improve the quality of service his residents receive. He explained his wife, the administrator of Prescott Place, has historically spent considerably more time than necessary on the phone with Intelliride attempting to arrange transportation services for his residents. Mr. Hill stated Hope Park drivers will arrange trips with Intelliride.¹⁵

Mr. Hill was then asked about the importance of consistency and the patient's comfort level when transporting behavioral

⁸ *Id.* at 12:13-18.

⁹ *Id.* at 12:19-23.

¹⁰ *Id.* at 13:14-21.

¹¹ *Id.* at 13:23 - 15:11.

¹² *Id.* at 16:2-18.

¹³ *Id.* at 17:20 - 18:7.

¹⁴ *Id.* at 18:8-13.

¹⁵ *Id.* at 19:9 - 20:7.

health patients. Mr. Hill stated that getting patients to their medical appointments to ensure they have their required medication is paramount. He further noted getting patients to appointments on-time regularly is important for their mental health and well-being.¹⁶

Additionally, Mr. Hill was asked about vehicles to be used for the proposed transportation services. Mr. Hill testified Hope Park has two fairly new heavy duty transit vehicles- one with 36,000 miles and the other with approximately 34,000 or 35,000 miles.¹⁷ Mr. Hill indicated he is familiar with the Commission's rules regarding vehicle safety inspections and vehicle safety requirements.¹⁸ Mr. Hill also testified that the vans will not be wheelchair accessible because neither Bel Air nor Prescott Place currently serve wheelchair clientele.¹⁹ He explained that if Hope Park were to expand its operations to include transportation of persons who required wheelchair accessible vans, he would look into purchasing them.²⁰ Mr. Hill stated that if there was a need for wheelchair accessible vans with a current client, he would explore the cheapest option, which may be to contract with one of the current providers in his service area.²¹ He further explained there are other carriers in Lancaster County that are capable of providing wheelchair accessible transportation.²²

Mr. Hill was then asked to clarify how his drivers will be trained in mental health. Mr. Hill stated one of Applicant's drivers, who worked for IBHS, has experience working in mental health. He noted he will teach the other driver some general problem solving techniques and methods to communicate to clientele to diffuse situations.²³ He further noted there will also be general training as well as policies and procedures in place to further assist drivers in various situations.²⁴

When questioned about the funding and financial backing of Hope Park, Mr. Hill explained that currently the transportation

¹⁶ *Id.* at 20:18 - 21:21.

¹⁷ *Id.* at 22:2-18.

¹⁸ *Id.* at 22:19-23.

¹⁹ *Id.* at 33:24 - 34:14.

²⁰ *Id.* at 34:15-21.

²¹ *Id.* at 34:22 - 35:5, 35:15-20.

²² *Id.* at 35:7-15.

²³ *Id.* at 23:17 - 24:14.

²⁴ *Id.* at 25:1-7.

contracts in place are through IBHS.²⁵ He further explained Hope Park would allow Prescott Place and IBHS to work together to expand the current transportation offered to include non-medical transport.²⁶ Mr. Hill noted the transportation services currently offered by IBHS are, and would continue to be, profitable under Hope Park.²⁷

Mr. Hill noted Prescott Place also collaborates with IBHS on a transitional housing program.²⁸ He explained the rent received from this program pays for the house and the vans Hope Park will use.²⁹ He explained the earnings from the transportation services currently offered by IBHS covers the costs of insurance, gas, and other related costs.³⁰ Mr. Hill noted that once things are over to Hope Park, the billings for transportation will go into Hope Park instead of IBHS. Hope Park would be a self-sustaining separate entity from IBHS.³¹ Mr. Hill testified that he will notify the Commission when the insurance is renamed under Hope Park.³² Mr. Hill stated he and his wife have experience in business management, so there should be no reason why Hope Park would be in financial trouble. Prescott Place and IBHS both make a profit, so if Hope Park needs help financially two different companies have ability to step in and assist.³³ Mr. Hill testified Hope Park is not yet registered and approved as a Medicaid provider, and the process has not yet started.³⁴

Finally, Mr. Hill was questioned about the potential impact to Hope Park when the HHS brokerage system transitioned to three brokers rather than one sole broker. Mr. Hill testified Hope Park has been working with the insurance providers of its clients in order to meet their requirements to provide service. He noted he does not see any issue in transitioning from working with one broker to working with three brokers.³⁵

²⁵ *Id.* at 25:8-21, 27:7-10.

²⁶ *Id.* at 25:23 - 26:11.

²⁷ *Id.* at 26:12-25.

²⁸ *Id.* At 28:4.

²⁹ *Id.* at 28:13-15.

³⁰ *Id.* at 28:16-17.

³¹ *Id.* at 28:18-23, 36:6 - 37:2.

³² *Id.* at 37:3-7.

³³ *Id.* at 28:24 - 29:7.

³⁴ *Id.* at 30:20 - 31:10.

³⁵ *Id.* at 32:12 - 33:21.

Finally, Mr. Jeromie Luginbill provided a statement and answered questions on behalf of Applicant. Mr. Luginbill is the owner of IBHS, which provides behavioral health services including day-time rehabilitation, case management, and outpatient mental health care. IBHS also currently provides transportation services but have exempt status.³⁶ Mr. Luginbill testified that IBHS is currently funding the transportation operations Hope Park will overtake.³⁷ He noted everything is currently under IBHS, but both his and Mr. Jereme Hill's names are on the vehicle titles. He stated he has had conversations with his insurance agent and has been assured the transition from IBHS to Hope Park is ready to go.³⁸ Mr. Luginbill explained his understanding is that Hope Park needs a Certificate of Authority prior to enrollment as a Medicaid provider. He explained that once a Certificate is granted, Hope Park would have everything in place other than a Medicaid identification number.³⁹ Mr. Luginbill further noted Hope Park is currently caught in the middle of the brokerage transition taking place with HHS and IBHS is attempting to get the contracts in place with all three brokers that can be reaccredited to Hope Park upon Medicaid approval.⁴⁰

Mr. Luginbill was asked about the mental health training one of Hope Park's drivers received during her employment at IBHS. Mr. Luginbill testified the driver, Cindy, has worked the behavioral health field for about fifteen years. He explained she has experience working with individuals who have co-occurring illnesses, medical issues, mental health issues, and both treated and untreated individuals with a psychiatric disorder.⁴¹ He noted her experience has led her to develop knowledge that allows her to recognize and understand potential issues that would not be as easily identifiable to someone with less experience. He further noted the other driver has experience working in non-direct care and has been around the population long enough to develop a keen understanding of how to handle situations involving these individuals.⁴²

Mr. Luginbill testified Hope Park will provide all of their

³⁶ *Id.* at 38:5-19.

³⁷ *Id.* at 38:23 - 39:2.

³⁸ *Id.* at 39:8-20.

³⁹ *Id.* at 39:21 - 40:6.

⁴⁰ *Id.* at 40:7-15.

⁴¹ *Id.* at 40:16 - 41:9.

⁴² *Id.* at 41:10-23.

staff training in de-escalation crisis intervention and will follow a standard model developed by the University of Nebraska Severe Mental Illness Lab. He explained the lab and the students are an invaluable resource for clinical intervention, clinical resources, clinical therapies, and rehabilitation models.⁴³ Mr. Luginbill testified the background checks for Hope Park will be conducted by the local Sheriff's Department. He further testified they do CMS and Applicant's drivers must complete a driver course and are checked for APS/CPS.⁴⁴ Mr. Luginbill further explained he is familiar with the background check requirements by Nebraska Medicaid.⁴⁵ Mr. Luginbill testified that he has attended numerous town hall meetings concerning the new Intelliride broker system for HHS, and noted one common theme is that administrators at the brokerage companies prefer specialized providers for medical transportation.⁴⁶

When asked about vehicle inspections, Mr. Luginbill stated one of the transportation companies who meets the requirements of Medicaid performs the inspections. He noted he is aware the Commission can also inspect Hope Park's vehicles at any time.⁴⁷ Mr. Luginbill ended his testimony stating that he is familiar and has a general understanding of Commission rules and regulations.⁴⁸

Exhibits

Commission Exhibits 1 through 4 were received and entered into the record during the hearing. Applicant was asked to submit additional financial documents related to Integrated Behavioral Health Services as a late-filed exhibit. Subsequent to the hearing, Applicant filed Late-Filed Exhibit 5 showing Integrated Behavioral Health Services' Income Statements since January 1, 2019 as well as for the period of May 29, 2018 through May 29, 2019. Exhibit 5 showed IBHS had a positive net operating income in both the previous year and since January 1, 2019.⁴⁹

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

Applications for contract carrier authority are governed by

⁴³ *Id.* at 42:2-14.

⁴⁴ *Id.* at 42:15-20.

⁴⁵ *Id.* at 42:21 - 43:1.

⁴⁶ *Id.* at 43:2 - 44:10.

⁴⁷ *Id.* at 46:14 - 47:11.

⁴⁸ *Id.* at 47:12-20.

⁴⁹ See Exhibit 5.

Neb. Rev. Stat. § 75-311(2), which provides:

"(2) A permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears after notice and hearing from the application or from any hearing held on the application that (a) the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of such sections and the lawful requirements, rules, and regulations of the commission under such sections and (b) the proposed operation, to the extent authorized by the permit, will be consistent with the public interest by providing services designed to meet the distinct needs of each individual customer or a specifically designated class of customers as defined in subdivision (7) of section 75-302. Otherwise the application shall be denied."

The Commission's consideration of an applicant's fitness is comprised of two tests. The first part of the test is whether the applicant is fit, willing, and able to properly perform the service of a contract carrier by motor vehicle and to conform to the provisions of such sections and the lawful requirements, rules and regulations of the Commission under such sections.

The Commission finds Applicant has met the fitness test of Neb. Rev. Stat. § 75-311(2)(a). Applicant presented sufficient financial information and managerial experience to support this venture. Applicant derives financial support from the business operations of an exempt transportation service, currently operated by one of its members, providing services under provider contracts. The Commission is confident Applicant has the financial resources available to support and supplement the business based on testimony and documents produced showing other profitable business ventures undertaken by the owners and operators of Applicant.

Furthermore, Applicant's members have experience managing and operating facilities dedicated to serving Applicant's clientele. Over the previous decade, Applicant's members have worked in the Lincoln community serving clients in a variety of ways. The Commission has no questions regarding Applicant's ability to manage an expanded transportation service. Applicant offered testimony that it is properly equipped to perform the service and has the infrastructure in place to guarantee proper service is

provided. Applicant has shown a commitment to ensuring that proper procedures are followed in transferring all necessary credentials and documentation from the current operation upon approval. The Commission is confident Applicant understands and will act in accordance with all relevant rules and regulations. Based on the evidence before us and adduced from the record in the instant case, the Commission finds the Applicant has met the fitness test of Neb. Rev. Stat. § 75-311.

The second part of the two-part test is whether the proposed operation, to the extent authorized by the permit, will be consistent with the public interest. In *Wells*, the Court established the following criteria to be considered in determining whether a proposed contract carrier operation will be consistent with the public interest:

"In considering an application for a permit to operate as a contract carrier, the burden is upon the applicant to show that the proposed service is specialized and fits the need of the proposed contracting shippers, that the applicant is fit, willing, and able to perform the service, and that the proposed operation will be consistent with the public interest."⁵⁰

In the application before us, the proposed operation is one that can facilitate the transportation needs of the clients of Prescott Place, IBHS, and Bel Air Homes, in the Lincoln area through the application of a specialized service provided by Applicant. The transportation needs of these clients can be enhanced by the training and experience offered by Applicant. Applicant will be able to provide round-trip transportation services, reducing the amount of time that clients will have to dedicate to their medical appointments. Applicant has indicated that it will train drivers to handle various situations that could arise when transporting these particular clients. Applicant has made a sufficient showing that the proposed service is designed to meet the needs of the relevant population and that the proposed operation will be consistent with the public interest.

After due consideration of the evidence and being fully advised in the premises, the Commission is of the opinion and finds:

⁵⁰ *Wells Fargo Armored Service Corp. v. Bankers Dispatch Corp*, 188 Neb. 584, 198 N.W.2nd 195 (1972) (Internal citations omitted).

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1. Applicant is fit, willing, and able to properly to perform the proposed service, the proposed service is in the public interest and conform to the provisions of Neb. Rev. Stat. §§ 75-301 to 75-322 (Cum. Supp. 2016) and the requirements, rules and regulations of the Commission thereunder.
2. Upon compliance with Neb. Rev. Stat. §§ 75-305 (fees) and 75-307 (insurance) (Cum. Supp. 2016), and with the rules and regulations of the Commission, a Permit of Authority should be issued as proposed:

Permit Authorized:

SERVICE AND TERRITORY AUTHORIZED:

CONTRACT: transportation of clients by van in open class to and from medical appointments, behavioral health appointments and/or day center programs within Lancaster County pursuant to service contracts with Prescott Place, Integrated Behavioral Health Services, and Bel Air Homes. RESTRICTIONS: The transportation of railroad train crews and their baggage is not authorized. HHS Designation: Yes - limited to clients transported pursuant to contract.

3. The application should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. B-1984 be, and it is hereby, granted; and that upon compliance with the terms and conditions set forth in this Order, a Permit of Authority shall be issued to Hope Park Transportation, LLC, Lincoln, Nebraska, in Application B-1984, authorizing the operation set forth in the foregoing findings.

IT IS FURTHER ORDERED that Applicant shall not be issued the Permit of Authority 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. §§ 75-305 (fees), 75-307 (insurance), and 75-308 (rates) (2018), and with the rules and regulations of the Commissioner 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.

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IT IS FURTHER ORDERED that Applicant shall not conduct operations until a Permit of Authority is issued.

IT IS FURTHER ORDERED that the operations authorized herein shall be subject to the terms, conditions, and limitations which have been, or may hereafter be prescribed by the Commission.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 13th day of November, 2019.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Crystal Unwaded

Mary R. Miller
Chair

Patricia Miller

Don W. Winters

ATTEST:

Tim Schram

Michael S. H. H. H.
Executive Director