

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Docket No. MT-0001.01
Public Service Commission, on)
its own motion, seeking to) ORDER DISMISSING, IN PART AND
address certain carriers in) SUSTAINING, IN PART
non-compliance with annual)
renewal requirements.) Entered: February 2, 2021

BY THE COMMISSION:

On January 7, 2020, the Nebraska Public Service Commission ("Commission"), on its own motion, opened the above-captioned docket to address those motor carriers not in compliance with the Commission's annual renewal requirements.

On January 5, 2021, the Commission ordered certain enumerated carriers to show cause as to why their Certificates of Public Convenience and Necessity should not be suspended pursuant to Neb. Rev. Stat. § 75-315 for failure to timely remit annual renewal fees prior to January 1, 2021, in accordance with Neb. Rev. Stat. § 75-305. Notice of the show-cause hearing was published in The Daily Record, Omaha, Nebraska on January 8, 2021.

On January 26, 2021, the Commission entered an Order dismissing several carriers from the show-cause proceeding that had completed all annual renewal requirements.

Hearing on this matter was held on January 26, 2021 at the Commission Hearing Room in Lincoln, Nebraska, as well as via WebEx due to the public health directives set forth in response to COVID-19. Appearances were made by Dillon Keiffer-Johnson and Jamie Reyes on behalf of the Commission. No appearances were made by legal counsel or representatives of the carriers named to appear.

E V I D E N C E

At the hearing, the Commission received eight exhibits into evidence and received testimony from Commission staff.

Ms. Jamie Reyes, Transportation Department Director, testified on behalf of Commission staff. Ms. Reyes provided the Commission with a background of the annual renewal fee requirements of Neb. Rev. Stat. § 75-305 and the Department's procedures for the annual renewal period.¹ As part of the department procedures,

¹ MT-0001.01 Transcript, 10:4 - 12:13 (hereinafter "TR page number: line number").

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Ms. Reyes stated that carriers were sent the initial annual renewal package November 1, 2020, with a reminder sent in December for carriers that had not yet completed the annual renewal requirements by that time.²

Ms. Reyes testified that there were 85 motor carriers for discussion at the hearing, an increase in carriers from last year.³ Ms. Reyes described the carrier Microsoft Excel spreadsheet list, received into the record as Exhibit 8, which detailed all annual renewal compliance tracking information for the carriers in question.⁴ Ms. Reyes mentioned three carriers- Borley Moving and Storage, Triumph Transportation, and Siouxland Paramedics- as three companies that the Department would recommend no adverse action. She elaborated that Borley Moving completed all annual renewal requirements, Siouxland Paramedics is out of business, and Triumph Transportation is working with Commission staff to confirm its compliance.⁵

Ms. Reyes then testified that the remaining carriers were in various categories of non-compliance based upon combinations of no annual fee payment, no insurance certificate filing, or no equipment list confirmation. Ms. Reyes noted two carrier categories in particular: 47 carriers that had not completed any annual renewal requirements, and 17 carriers that had only filed an insurance certificate. These carriers were of note because they had yet to meet the Neb. Rev. Stat. § 75-305 requirement that all carriers pay an annual per-vehicle fee, which in her view was the most concerning.⁶ Ms. Reyes stated that the department staff could continue to work with the listed carriers that have at least paid the annual fee but have yet to either confirm vehicles or current insurance policies. Finally, Ms. Reyes recommended that the Commission suspend those carriers that had not paid the annual fee and to not take any action against those that paid the annual fee but have other areas of non-compliance.⁷

When questioned about the annual renewal status of carriers with services currently suspended, Ms. Reyes testified that those carriers are not subject to annual renewal requirements until the carrier wishes to resume providing services. At that point, the carrier would need to pay its vehicle fee and file proof of current

² TR 12:13-20.

³ TR 12:21-25.

⁴ TR 13:9 - 16:12.

⁵ TR 16:19 - 19:4.

⁶ TR 19:12 - 21:25.

⁷ TR 22:1 - 24:10.

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insurance.⁸ Commissioners then discussed with Ms. Reyes the possibility of suspending all carriers listed in Exhibit 8 no matter the level of non-compliance with annual renewal requirements.⁹

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

Pursuant to Neb. Rev. Stat. § 75-305, every regulated motor carrier and transportation network company ("TNC") must pay an annual fee on or before January 1 and shall be delinquent March 1 each year after such permit or certificate has been issued. Additionally, § 75-315 states that the Commission, may, on its own initiative after notice and hearing, suspend a Certificate of Public Convenience and Necessity or Permit of Authority for failure to comply with Neb. Rev. Stat. §§ 75-101 to 75-801, with any lawful order, rule, or regulation of the Commission promulgated under such sections, or with any term, condition, or limitation of the permit or certificate.¹⁰

At the date of the hearing, 77 carriers had not fully complied with the annual renewal requirements. Evidence shows that all carriers but four received some or all notices sent on or around November 1, 2020, and January 5, 2021. Certain carriers also spoke with Commission staff regarding compliance and yet failed to file all required documents and/or payments prior to the hearing.

The Commission finds that three carriers shall be dismissed from the docket and 68 carrier authorities should be suspended.¹¹ These decisions will be discussed below.

Borley Moving & Storage, Triumph Transportation, Paradise Limo and Siouxland Paramedics

Borley Moving & Storage, Inc. completed all compliance requirements prior to the January 26, 2021 Order to Dismiss in Part but were not included in the Order. Triumph Transportation, Inc., shares common ownership with Camelot Transportation, Inc.,

⁸ TR 24:13 - 25:16.

⁹ TR 26:3 - 36:25.

¹⁰ Neb. Rev. Stat. § 75-315 (Cum.Supp.2020).

¹¹ See Docket No. MT-0001.01 *In the Matter of the Nebraska Public Service Commission, on its Own Motion, seeking to address certain carriers in non-compliance with annual renewal requirements, Order to Dismiss, In Part* (Entered February 2, 2021) (dismissing nine additional carriers from the docket who remitted their annual renewal fees, forms, and current insurance documents after the hearing).

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and both company's compliance was handled jointly. As these carriers fully complied with all requirements, the Commission finds that no action will be taken as it relates to these carriers and they should be dismissed from the docket.

Additionally, the Commission received notice that Siouxland Paramedics discontinued operations in July 2020 and staff are awaiting documents from the company's attorney to cancel its Certificate of Public Convenience and Necessity. As such, the Commission finds that no action will be taken as it relates to Siouxland Paramedics and it is therefore dismissed from the docket.

Finally, Commission staff was informed that Paradise Limo has discontinued operations and staff are awaiting documents to cancel its Certificate of Public Convenience and Necessity. Therefore, the Commission finds that no action will be taken as it relates to Paradise Limo and it is therefore dismissed from the docket.

Remaining 67 Carriers

The following carriers were found to be in some combination of non-compliance as of the hearing:

Passenger Carriers: 9Line Medical Solutions, LLC; Action Taxi & Limo, Inc.; Alpha Life Improvement Services; Ambassador Transportation, LLC; Big A Holdings d/b/a OMALiNK; Big O's Party Bus, LLC; Black Diamond S&S; Bus at the Yard d/b/a Luxury Limousine; Caring Hearts Transportation; Cornbelt Development d/b/a Travel Plus Limousines; Davis Entertainment d/b/a Ollie the Trolley; Executive Coach, LLC; Extreme Nightlife; First Student, Inc.; FunFamily Party Bus, LLC; Handivan Transports, Inc.; Laidback Limousine, Inc.; Limo One, Inc., d/b/a Old Market Limousine; Limousine Services, LLC; Medics At Home, Inc.; Midwest Medical Transport Co., LLC; Midwest Special Services, Inc.; Midwest Transportation Specialists; National Arbor Day Foundation; National Health Transport, Inc.; Nebraska Excellent Health Transport; Night Life Limousine, LLC; Omaha Ambulance Service, Inc.; Omaha Omaha Handicap Trans. Serv.; Papio Transport Service, Inc.; Party Express Bus, LLC; Premier Limousine, LLC; Price's Party Patrol, LLC; Ride the Good Life, LLC; Rockin N Rollin; Royal Limousine Service; Safe Ride Shuttle; Siouxland Taxi; Smiley's; SNP Consulting Services; Star Limo Party Bus, LLC; Stutheit Transportation Serv., Inc.; TAA, LLC d/b/a Big Premier Limousine; Unity Transportation Services, Inc.; WHC NE, LLC d/b/a Airport Transportation & zTrip; WHC NE, LLC

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d/b/a Checker Cab & zTrip; WHC NE, LLC d/b/a Cornhusker Cab & zTrip; WHC NE, LLC d/b/a Happy Cab & zTrip; WHC NE, LLC d/b/a Safeway Cab & zTrip; WHC NE, LLC d/b/a Yellow Cab & zTrip; Yellow Cab Beatrice d/b/a Leisure Taxi; and Wings of Love.

Household Goods Movers: A Helping Hand Moving, LLC; Chet's Transfer of Kearney, Inc.; Daniel's Moving and Storage; Dale Bierman d/b/a Dolly Giant Movers; Flat Rate Movers d/b/a Black Belt Movers; Ford Van Lines, Inc.; King's Moving; Maher Bros. Transfer & Storage; Murphy Moving, Inc.; Nebraskaland Moving & Storage; New World Van Lines, Inc.; Roelfs Transfer Inc.; Shasteen Transfer and Storage; and True Movers, LLC d/b/a Black Belt Movers.

As noted above, all regulated motor carriers must pay annual fees prior to January 1st of each year for each vehicle registered with that carrier. Inherent to the per-vehicle annual fee is an obligation of a carrier to confirm with the Commission the vehicles it intends to operate under its authority. This ensures the Commission receives the proper payment of annual renewal fees as well as confirms which vehicles are to receive cab cards, license plates, and renewal tabs pursuant to Neb. Rev. Stat. § 75-306. A carrier cannot receive these items unless its insurance status can be confirmed. Although the annual fee payment is the only item specifically mentioned in § 75-305, an equipment list and proof of insurance are inseparable from the requirement to pay for vehicle registration renewal, in similar fashion to registering one's personal vehicle with the Department of Motor Vehicles each year.

Last year, the Commission decided to take no adverse action against any carriers that were in non-compliance. In its March 3, 2020 Order, the Commission noted that the carriers could have been suspended based upon the evidence presented and the lack of attendance. However, it was found to be in the public interest to not suspend so many carriers at one time.¹²

The Commission is now again in the position to determine what action, if any, should be taken against the remaining carrier list. Evidence presented at the hearing showed that carriers were given reasonable notice of all requirements and the dates that these items were to be received. Annual fees and required documentation

¹² See Docket MT-0001.01 In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to address certain carriers in non-compliance with annual renewal requirements, Order (Entered March 3, 2020).

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are due the same time every year. Carriers were also notified of the possible consequences of not adhering to the due dates. It is of note that not one carrier appeared before the Commission to give any reason why the due date could not be met. Although the Commission maintains the public interest is best served with as many options as possible for safe, reliable transportation, there is also potential harm with allowing non-registered and/or non-insured vehicles to operate on Nebraska roads. Carriers illustrate their fitness to hold a certificate or permit of authority by adhering to all Nebraska statues, Commission orders, policies and rules and regulations. Failure to comply with annual renewal requirements calls that fitness into question, especially for those carriers that have been previously named in this docket or as a respondent to a motor carrier complaint for similar reasons.

Based on the above, the Commission finds that the above-mentioned carriers are in non-compliance with the requirements set forth by the Commission for annual renewal pursuant to Neb. Rev. Stat. § 75-305. Therefore, these carriers' certificates and/or permits of authority are hereby suspended and carriers must cease and desist from providing any for-hire transportation services for passengers or household goods within the State of Nebraska as of the effective date of this Order. Each authority will remain suspended until such time as all annual renewal requirements are complete and the Commission enters an Order to reauthorize the provision of services. Failure to comply with the terms of suspension will result in adverse Commission action.

Carriers are on notice that all annual renewal compliance will be considered delinquent on March 1, 2021 pursuant to § 75-305. In addition to the ongoing suspension, any delinquent carriers will be subject to further Commission action, including administrative fines and adverse action up to and including revocation of a carrier's certificate or permit of authority.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Borley Moving & Storage, Triumph Transportation, Inc., Paradise Limo, and Siouxland Paramedics, be, and are hereby, dismissed.

IT IS FURTHER ORDERED that the show-cause against the above-mentioned carriers be, and is hereby, sustained and the named carriers are hereby suspended from providing transportation services within the State of Nebraska pursuant to their

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Certificates of Public Convenience and Necessity or Permits of Authority as prescribed herein.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 2nd day of February, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Crystal Broadus
Mary Keddin
Tom Schram

Don Woodruff

Chair

ATTEST:

Michael S. Hyl

Executive Director