

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Docket No. MR-1025/PI-238
Public Service Commission, on)
its own motion, seeking to)
investigate the use of) ORDER OPENING DOCKET AND
differential rates and charges) SETTING HEARING
by motor carriers providing)
intrastate passenger)
transportation services.) Entered: June 29, 2021

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"), on its own motion, hereby opens the above-captioned docket to investigate the use of certain differential rates and charges by motor carriers providing for-hire intrastate passenger transportation in the state of Nebraska.

Nebraska statute § 75-126 states that a common carrier shall not charge, demand, collect or receive more or less compensation from any person than what rates are filed with and prescribed by the Commission, with few exceptions. A common carrier may perform services at free or reduced rates for the following persons or entities: The United States, the State of Nebraska, or any governmental subdivision thereof; employees, both present and retired, of such common carrier; any person when the object is to provide disaster relief; any person who transports property for charitable purposes; ministers and others giving their entire time to religious or charitable work; or any person who is legally blind or visually impaired.¹ Differential rates are those rates charged and collected by a common carrier from a person either in a lesser or increased amount from the rate that the common carrier charges and collects from any other person for the same or contemporaneous service and does not fall under one of the listed exemptions under § 75-126.

On January 1, 2011, the Commission entered an order eliminating differential rates from the published rates of certain certificated transportation carriers to the extent that such rates were in violation of Neb. Rev. Stat. § 75-126 and other applicable statutes. The carriers in question were charging and collecting differing rates for general public

¹ See Neb. Rev. Stat. § 75-126.

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transportation of ambulatory persons and persons utilizing wheelchairs.² The Order also stated that § 75-126 allows a common carrier to charge a governmental entity at a free or reduced rate. The Nebraska Department of Health and Human Services ("NDHHS") had contracted with common carriers to provide transportation services and paid differential rates depending upon whether the transportation was provided using a vehicle that complied with the Federal Americans with Disabilities Act. As NDHHS transportation was not found to be general public transportation, such rates fell under the exception of § 75-126(2)(a) for governmental subdivisions allowing services to be provided a free or reduced rates.³

Much has changed for NDHHS transportation since the Commission's 2011 Order. On July 1, 2019, changes to the NDHHS brokerage system for non-emergency medical transportation ("NEMT") included changes to the reimbursement process for certificated motor carriers authorized to provide NEMT transportation through their HHS Designation. In 2011, reimbursement for NEMT services came from NDHHS through the broker to the motor carrier. In 2019, the reimbursements instead began to be paid by Managed Care Organizations ("MCO") to the motor carrier through the broker. Because MCOs are not governmental subdivisions, it was determined that NEMT services must be paid according to the HHS Designated motor carrier's rates filed with and approved by the Commission.

The Transportation Department recently conducted a review of certificated passenger carrier rates. The review showed that several passenger carriers still charge differential rates, including differential rates for ambulatory and wheelchair transportation services where the rate is higher for wheelchair transportation services than ambulatory transportation services. Additional differential rates include senior citizen and military/veteran discounts. The differential rates must be addressed to determine compliance with § 75-126.

Based on the above, the Commission finds that this docket should be opened, and a proceeding scheduled to discuss these differential rates, with special emphasis on rates charged and

² See Application No. BR-332 *In the Matter of the League of Human Dignity, Petitioner, vs. R&F Hobbies, Inc., dba Prince of the Road, Midlands Services Link, A-1 Transportation, LLC, dba A-1 Special Services, Hope Transportation, Inc., Prime Consultants, Inc., dba Goodwill Medical Transportation, Respondents*, Order (Entered January 19, 2011).

³ *Id.*

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collected for ambulatory and wheelchair transportation services. Therefore, the Commission finds that hearing on this matter will be held **Tuesday, July 27, 2021** at **11:00 a.m.** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska. Remote access to the hearing will be available via WebEx at the following link: <https://psc.nebraska.gov/stream>. Individuals may also attend the meeting by telephone: dial 408-418-9388, then enter 146 273 5624 when prompted for the access code.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven (7) days is needed when requesting an interpreter.

O R D E R





IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned docket be, and is hereby, opened.

IT IS FURTHER ORDERED that hearing on this matter will be held **Tuesday, July 27, 2021** at **11:00 a.m.** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska, with remote access as provided herein.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 29th day of June, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



Chair

ATTEST:



Executive Director