BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

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| In the Matter of the Application of KozGo Inc., Omaha, seeking authority to operate as a transportation network company in the state of Nebraska. | ) Application No. T-4<br>)<br>)<br>) APPLICATION DENIED<br>)<br>)<br>)<br>) Entered: December 14, 2021 |

BY THE COMMISSION:

By application filed March 19, 2021, KozGo Inc. ("Applicant"), Omaha, is seeking authority to operate as a transportation network company ("TNC") in Nebraska. Applicant is a Nebraska corporation with its principal office in Omaha, Nebraska.

Initial review indicted that Applicant was not duly certified or permitted to operate as a TNC in at least one other state. It was therefore determined that a hearing should be held to allow Applicant an opportunity to show that it had sufficient financial resources, technical competency, and sufficient managerial resources to provide TNC services as required by Neb. Rev. Stat. § 75-324(2)(c).

Hearing on this matter was held on May 26, 2021 in the Commission Hearing Room and via WebEx. Ms. Jamie Reyes and Mr. Dillon Keiffer-Johnson appeared on behalf of the Commission. No attorneys filed an appearance on Applicant's behalf; however, Mr. Bemba Kalifa Habib Male and Mr. Stephane Tra were asked by Commission staff to testify on behalf of Applicant.

E V I D E N C E

Mr. Bemba Kalifa Habib Male testified first on behalf of the Applicant. Mr. Kabib has been a security officer of Cyber Security with the Nebraska Army National Guard for four years and with the National Guard for a total of nine years.[1] Mr. Kabib is the owner and Chief Executive Officer ("CEO") of KozGo, Inc.[2] In later testimony, Mr. Kabib testified that as CEO he is the individual behind getting the company up and running, by hiring initial employees, ensuring compliance with state licensure regulations, and overseeing expansion of company research. He added that his

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[1] *Hrg. Trans.* 9:1-8 (May 26, 2021).
[2] *Id.* at 9:15 - 9:21.

partner, Mr. Stephane Tra, also assists.[3] Mr. Kabib stated that KozGo wants to operate a successful rideshare service in the State of Nebraska. He expects KozGo will be successful because they prioritize their drivers by incorporating a revolutionary ownership style that allows drivers to be their own boss by collecting most of their earnings while remaining competitive in terms of their pricing.[4]

When discussing KozGo's driver-first strategy, Mr. Kabib explained that the difference between KozGo and the other TNC operators, Uber and Lyft, is that KozGo operates by setting a cap on the maximum amount of money taken out of driver earnings. For example, if KozGo set a cap in the Omaha area at three-hundred and fifty dollars, KozGo would take a percentage of its driver's earnings each trip until it reached the set cap. Once that cap is reached, the driver would keep all their earnings for the rest of the month. Mr. Kabib noted that this business model allows KozGo's drivers to be well-compensated while allowing the company to be more predictable with its earnings and forecasting.[5]

Mr. Kabib then discussed KozGo's online platform. He explained that there are two separate applications ("apps") available that connect KozGo's drivers to riders. The driver app allows a KozGo driver to make themselves available to those using the rider app. While the rider app allows potential customers to search for available drivers and schedule a trip. Once a customer affirms a trip, a driver is then able to see where that customer is located and embark to that customers location to begin a trip.[6] Mr. Kabib testified that using the app is the only way a rider can schedule a trip with KozGo. Mr. Kabib noted that both apps can be found on both Android and IOS.[7] Mr. Kabib noted that KozGo has a server hosted through AWS Amazon to ensure the company is compliant with security and encryptions to safely transfer data and financial information between its apps. He explained that Amazon offers a package that KozGo utilizes for its server for security. As for the apps, Mr. Kabib stated that KozGo had to be mindful of how the app is quoted to allow the encrypted sharing of data.[8]

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[3] *Id.* at 13:13 – 14:9.
[4] *Id.* at 11:18 – 12:7.
[5] *Id.* at 12:10 – 13:12.
[6] *Id.* at 16:17 – 18:3.
[7] *Id.* at 18:4 – 18:12.
[8] *Id.* at 18:12 – 19:3.

   Mr. Kabib testified that as a start-up company, KozGo had to be cost-minded when thinking of app maintenance. As such, the first prototype of the app was developed by a team in Pakistan; however, prior to the company launch, KozGo made the decision to bring app maintenance in-house. Mr. Kabib noted that having the app housed in Pakistan raised safety issues, specifically the ability for KozGo's servers holding financial information to be accessed by a different country. Mr. Kabib noted that he now hosts the server, but KozGo has recently hired a U.S. company to assist with server hosting.[9] Mr. Kabib further noted that as part of its transition from outsourcing to in-house maintenance, KozGo has begun looking for recent graduates from the University of Nebraska-Omaha to work with the company.[10]

   Mr. Kabib, in explaining KozGo's E-commerce system, stated that a rider will have to input their financial information into KozGo's app before they can request a ride. He stated that KozGo decided to use Braintree as its payment gateway service provider to lessen the number of security issues that may arise. Mr. Kabib explained that by using Braintree for this portion, a customer's financial information is stored directly with Braintree rather than on KozGo's servers. He further stated that Braintree offers insurances that covers lost information.[11] Mr. Kabib explained that drivers are required to input their financial data in the same manner as riders, and that when a driver wishes to withdraw their earnings it is a wire transfer to their account through Braintree.[12]

   Ms. Reyes then asked Mr. Kabib to describe the driver interface of the app in more detail. Mr. Kabib noted that on the driver app the drivers will be told how much money they have made, when they will meet the cap, and when their cap will be taken out of their earnings again. Mr. Kabib noted that the interface will allow the drivers to track their information as it relates to KozGo, ranging from their tips to a detailed description of each trip they completed. He further explained that KozGo will have a rating system allowing both drivers and riders to rate each other.[13]

   In describing how KozGo would handle insurance coverage, Mr. Kabib explained that currently most rideshare companies have types

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[9] *Id.* at 19:4 – 19:17.
[10] *Id.* at 19:18 – 19:23.
[11] *Id.* at 19:24 – 21:9.
[12] *Id.* at 21:10 – 21:25.
[13] *Id.* at 22:1 – 23:23.

of insurance that fall into various categories from Type 1, Type 2, and Type 3. Mr. Kabib explained that one type covers the driver when they pick up the rider, which is typically owned by the rideshare company. He further noted there is a type that does not cover a driver at all when they are looking for a rider or when they are actually driving to get to the rider.[14] Mr. Kabib testified that from his experience most Uber and Lyft drivers will not inform their personal insurance company that they are driving for a rideshare company.[15] Mr. Kabib stated now that rideshare insurance exists as an add-on to a driver's personal insurance policy, making the distinction between the different types of insurance unnecessary.[16]

Mr. Kabib testified that KozGo does not follow the traditional scheme of having different types of insurance to cover rideshare operations, rather the company forces its drivers to obtain rideshare insurance.[17] Mr. Kabib confirmed he had reviewed the Nebraska Statutes relating to transportation network company insurance requirements. However, he stated that he was not familiar with the specific sections regarding insurance, but he did have some knowledge of the coverage requirements but could not state with specificity what those requirements were.[18] Mr. Kabib testified that he was not familiar with the requirement that a transportation network company have insurance in place regardless of what insurance a driver had. He stated that it was his understanding that all that was required was for the company to have business insurance to cover the business and its operations. He thought that all that was required was a certain coverage amount and that the rideshare insurance held by KozGo's drivers would fulfill that requirement.[19]

Mr. Kabib detailed how KozGo would handle consumer complaints. He explained that without the ability to install cameras in each drivers' vehicle to document potential disputes, KozGo would require evidence surrounding the event in the form of pictures or witness testimony.[20] Mr. Kabib confirmed that there will be a customer service number established for riders and then

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[14] *Id.* at 24:2 – 24:18.
[15] *Id.* at 24:19 – 24:25.
[16] *Id.* at 25:1 – 25:8.
[17] *Id.* at 25:9 – 25:18.
[18] *Id.* at 25:24 – 26:9.
[19] *Id.* at 27:3 – 27:18.
[20] *Id.* at 28:2 – 29:2.

a separate number for drivers. He also explained that customers and drivers will have the ability to send complaints through the app itself.[21]

Mr. Kabib next discussed the management structure of KozGo. He confirmed that no one has been added to the management team since the completion of the business plan. Mr. Kabib explained that as a start-up, the company is holding off on hiring additional management personnel until the app service is up and running.[22] Mr. Kabib noted that over the next three years he did not foresee adding any other positions to KozGo other than those indicated in KozGo's application.[23] Mr. Kabib reiterated that as far as hiring initial personnel, excluding drivers, KozGo's whole management team would conduct interviews and make hiring decisions. Mr. Kabib further explained that the driver program outreach supervisor would hire potential drivers, and that he and his management team would not be involved in that process. Mr. Kabib explained that the driver program outreach supervisor will have a unique understanding of the field and preferably will be someone who has previous experience as a driver for a rideshare company.[24]

Mr. Kabib testified that the first step in the process of hiring drivers would be for potential drivers to file the appropriate information with KozGo via the company's website or its app. He stated that information would include the driver's name, driver license number, a completed background check, and their vehicle information. KozGo would then confirm the accuracy of this information. Mr. Kabib further noted that once that information was processed, the potential driver would receive a training package introducing KozGo's policies and procedures. He added that once that training was completed, KozGo would ensure each driver's comprehension of the policies and procedures. Mr. Kabib stated that a driver would be able to use the app but would not have the ability to perform trips until this training was completed.[25] Mr. Kabib testified that the company Good Hire would conduct driver background checks.[26] Mr. Kabib reiterated that pursuant to KozGo's Background Check Policy, the driver must give

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[21] *Id.* at 29:3 – 29:18.
[22] *Id.* at 30:2 – 30:20.
[23] *Id.* at 30:21 – 31:4.
[24] *Id.* at 31:5 – 31:25.
[25] *Id.* at 33:1 – 34:23.
[26] *Id.* at 34:24 – 35:11.

KozGo permission to conduct a background check on the driver.[27] He confirmed that other than certain offenses that may prevent the hiring of a driver, the hiring determination is made on a case-by-case basis. Mr. Kabib also confirmed that potential drivers must sign off on the Zero Tolerance policy for drugs and alcohol and the Anti-Discrimination policy prior to being hired.[28] Mr. Kabib testified that each driver will be evaluated annually by the driver program outreach supervisor pursuant to the Fleet and Driver Safety Program.[29]

Mr. Kabib stated that the requirements for potential drivers will be based on the State requirements and will differ depending on each state. Mr. Kabib noted that KozGo's website would have a form each prospective driver would need a completed by a mechanic when signing up to drive for KozGo. He detailed that KozGo will have a partnership with a specific mechanic shop that he previously used when driving for other rideshare companies in hopes of streamlining this portion of the sign-up.[30]  Once completed, the prospective driver must upload this form onto the website. Mr. Kabib testified that the return of this vehicle inspection form will be included in the hiring process for drivers.[31] When discussing the vehicle requirements under Nebraska law, Mr. Kabib recalled that if a driver wanted to use a vehicle older than 10 years old there must be confirmation that no safety issues exist and that there are even some cars that cannot be operated as a TNC vehicle.[32]

Mr. Kabib testified that KozGo plans to offer wheelchair accessible vehicles. He stated that on the app, a rider would have the option to select a regular car, a six-seater, or a van. If a rider chooses a van, it will be wheelchair accessible.[33] During discussion of the Fare Rates document included within Exhibit 1, Mr. Kabib explained that there is a distinction in price between vehicle type. He explained that prior to establishing a standalone wheelchair accessible section, the company must test the market to see if such a service will be viable. In the meantime, KozGo will

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[27] *Id.* at 35:12 – 35:17.
[28] *Id.* at 35:20 – 36:14.
[29] *Id.* at 36:11 – 36:23.
[30] *Id.* at 36:24 – 37:18.
[31] *Id.* at 37:19 – 37:23.
[32] *Id.* at 37:24 – 38:17.
[33] *Id.* at 39:10 – 39:19.

ensure that the XL vehicles are wheelchair accessible.[34] Mr. Kabib testified that the proposed prices are based on the data gathered surrounding what other rideshare companies are charging. He explained that with competitive driver pay, he feels that KozGo can have competitive prices on the market.[35]

Mr. Kabib next discussed the financial overview of KozGo detailed in the business plan. Mr. Kabib explained that KozGo's start up analysis included forecasting related to the number of potential drivers and riders based on field research. Mr. Kabib explained the field research conducted by KozGo included riding with drivers of other rideshare companies and inquiring about their interest in joining KozGo. He noted that most drivers indicated their interest and provided their contact information. This informal survey data was then combined into cumulative results.[36] Mr. Kabib confirmed the accuracy of the owner investment indicated in the startup analysis and confirmed that amount did not include any financing.[37] In later testimony, Mr. Kabib explained that the working capital detailed in the startup analysis is money the company has saved and is ready to use in its operations.[38]

Mr. Kabib testified that the general assumptions of the business plan were based on the field research of current Uber and Lyft drivers in Omaha and Lincoln.[39] Later, Mr. Kabib added that these assumptions were based on the likelihood that drivers would drive for both their current companies as well as KozGo.[40] Mr. Kabib stated that based on the results of this field research, KozGo had 35 to 37 potential drivers signed up to work with the company.[41] Mr. Kabib explained that the expected increase in the number of drivers and riders over the company's first five years of operations was based on the publicity expected to be generated from the various advertising KozGo plans to do through social media and other means.[42] Mr. Kabib explained that as a new company there is no expectation to make a profit in the first three years, and

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[34] *Id.* at 39:20 – 40:25.
[35] *Id.* at 41:1 – 41:11.
[36] *Id.* at 43:15 – 44:16.
[37] *Id.* at 44:17 – 45:5.
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[39] *Id.* at 45:6 – 45:14.
[40] *Id.* at 50:13 – 50:24.
[41] *Id.* at 45:17 – 45:22.
[42] *Id.* at 45:23 – 46:13.

that if the assumptions the business plan is based on were not met, KozGo would not stop providing their services.[43]

Mr. Kabib testified that the Financial Overview contained within the Business Plan shows the projected total revenue, total expenses, and net profit. He explained this numbers are derived from combining the cap KozGo will take out of each driver's pay and the expected number of drivers and riders.[44] Mr. Kabib confirmed this was also based on the proposed rates included in KozGo's application. Mr. Kabib reiterated the proposed rates would provide the income necessary to meet financial projections and offer competitive pricing.[45] Mr. Kabib testified that based on KozGo's financial overview, the company would be profitable by year three.[46] In later testimony, Mr. Kabib confirmed that KozGo will have investors that will supply additional funding.[47]

In response to Commissioner questions regarding the general assumptions of KozGo's business plan, Mr. Kabib stated that based on KozGo's research, combined Uber and Lyft have approximately 300 drivers.  However, He stated he was unsure of the exact number of riders between the two companies.[48] As a result, KozGo's projection of the number of riders the company will have was based on an estimation of the current riders serviced by Uber and Lyft.[49] Mr. Kabib testified that he did not have accurate data on the number of trips originated based on city.[50] Mr. Kabib stated that at some point KozGo may approach a bank regarding opening a line of credit but at this point the company is not in a position to approach a bank.[51]

Next, Mr. Stephane Tra testified on behalf of Applicant. Mr. Tra works with LinkedIn as a resource optimization analyst.[52] Mr. Tra testified that with his operational background, he will serve as a partner and consultant for KozGo making recommendations and providing guidance on how to run the business as the company

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[43] *Id.* at 46:14 – 46:25.
[44] *Id.* at 47:1 – 47:13.
[45] *Id.* at 47:18 – 47:25.
[46] *Id.* at 48:1 – 48:5.
[47] *Id.* at 54:2 – 54:10.
[48] *Id.* at 51:10 – 51:24.
[49] *Id.* at 52:3 – 52:19.
[50] *Id.* at 53:1 – 53:7.
[51] *Id.* at 55:12 – 55:24.
[52] *Id.* at 58:19 – 58:24.

grows.[53] He explained that throughout his career he has worked with numerous startups and has an idea on the route KozGo can take to grow. He further noted that his experience will materialize when determining KozGo's options and process in hiring new employees.[54] Mr. Tra stated that KozGo has yet to create a hiring process, focusing on informally approaching friends and drivers for other companies and providing them information about KozGo. Mr. Tra explained that, as the company grows, it plans to transition to a recruiting platform to increase its outreach.[55]

Responding to questions regarding KozGo's management hierarchy, Mr. Tra reiterated that, as the company is currently in the startup phase, the company does not possess the manpower to integrate the hierarchy outlined within the business plan. However, as the company grows, Mr. Kabib and himself will have the same amount of control over company guidance and other positions will be added. Mr. Tra explained the potential to have supervisors that manage up to 50 drivers. Later, Mr. Tra explained that initially each supervisor will oversee approximately 20 to 30 drivers but as the company grows this number will likely increase. Mr. Tra stated KozGo also has plans in place to have status meetings on a weekly or monthly schedule to cover changes taking place within the company.[56]

Mr. Tra, answering questions directed KozGo's financial projections, reiterated the optimistic nature of the projections. He stated that the impact Uber and Lyft were having in Omaha influenced KozGo's decision to enter the marketplace. Mr. Tra reiterated that with KozGo's different business model, there is an expectation that the competition's drivers will switch to KozGo.[57] Mr. Tra concluded his testimony by clarifying that the projections surrounding the number of trips included only Omaha and Lincoln, but as the company grows its service territory could expand to different cities throughout the state. However, Mr. Tra explained that KozGo would need to evaluate the effect expansion would have prior to implementation.[58]

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[53] *Id.* at 58:25 – 59:5.
[54] *Id.* at 60:14 – 61:5.
[55] *Id.* at 61:6 – 61:24.
[56] *Id.* at 62:12 – 63:19.
[57] *Id.* at 64:6 – 65:15.
[58] *Id.* at 66:15 – 67:17.

The hearing adjourned with five exhibits offered and received into evidence- KozGo's TNC permit application, the Hearing Officer's Order scheduling the hearing, Mr. Habib's resume, KozGo's business plan, and Mr. Tra's resume.

Following the hearing, Commission staff and Applicant discussed the company' insurance filing. Commission staff informed Applicant that based on hearing testimony, the insurance coverage filed in the application package was insufficient and did not meet the requirements of Neb. Rev. Stat. §§ 75-333 and 334. Applicant was then given until November 12, 2021 to cure the deficiency and file a new insurance certificate that met statutory requirements. To date, Applicant has not filed the required insurance certificate.

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

KozGo, Inc. is seeking approval to operate as a TNC in Nebraska. Because Applicant is not duly certified or permitted to operate in another state, the application was processed pursuant to NEB. REV. STAT. § 75-324(2)(c). The statute states an applicant that is not duly certified or permitted to operate as a TNC in at least one other state must demonstrate that (i) the applicant has sufficient financial resources to provide TNC services in the proposed service territory; (ii) the applicant has sufficient technical competency to provide TNC services in the proposed service territory; and (iii) the applicant has sufficient managerial resources to provide TNC services in the proposed service territory.

Exhibit 1 shows Applicant submitted its application containing all required contact information, as well as its drug and alcohol policy, anti-discrimination policy, proposed rates, and an insurance certificate. Because this application was one of first impression, Commission staff requested supplemental information from Applicant to illustrate the required competency areas.[59] Applicant filed its business plan and resumes of its two business partners, which were entered into evidence.

It became apparent during Mr. Habib's hearing testimony that the insurance certificate filed with Applicant's application package was not in line with Nebraska statutes. Under Nebraska

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[59] Previous TNC applications were filed by companies duly certified or permitted in at least one other state and therefore reviewed pursuant to Neb. Rev. Stat. § 75-324(2)(b).

statutes 75-333 and 75-334, insurance coverage is separated into distinct stages: application open stage, engaged stage, and passengers on board stage. Coverage may be achieved with TNC insurance maintained by the driver, the TNC, or a combination of the two. Mr. Habib stated that KozGo planned to require its drivers to maintain insurance coverage; however, that insurance coverage was not described in a way that met Nebraska statutory requirements. Commission staff attempted to work with Applicant to cure the issue and gave Applicant until November 12, 2021 to file proof of insurance that met statutory requirements. To date, there has been no contact from Applicant.

Although a hearing was held on the merits of the application, we cannot make any determination because the application is incomplete without the required insurance certificate. Applicant was given an opportunity to complete the application and failed to do so. Without communication from Applicant, we have no choice but to deem the application as abandoned and deny Applicant's request for TNC authority.

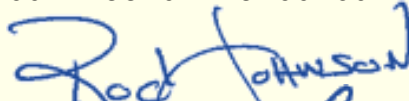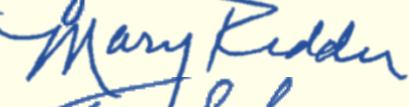Based on the above, the Commission finds that the application of KozGo, Inc., Omaha, should be denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the application of KozGo Inc., Omaha, be, and is hereby, denied as provided herein.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 14th day of December, 2021.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Chair

ATTEST:

Deputy Director