

# SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

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## BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska ) Docket No. B-2005.01  
Public Service Commission, on )  
its own motion, to require )  
Extreme Nightlife, LLC, ) SHOW CAUSE SUSTAINED AND  
Lincoln, to show cause why its ) CERTIFICATE B-2005 REVOKED  
Certificate of Public )  
Convenience and Necessity )  
should not be revoked. ) Entered: January 4, 2022

BY THE COMMISSION:

On September 14, 2021, the Nebraska Public Service Commission ("Commission") received an insurance Form K notifying the Motor Transportation Department ("Department") the insurance for Extreme Nightlife, LLC ("Extreme Nightlife"), Omaha, would cease on October 13, 2021. On November 2, 2021, the Commission entered an Order to Show Cause and Schedule Hearing. The Order was sent by certified mail, return receipt requested, but was returned as undeliverable.

On November 30, 2021, a show cause hearing was held in the Commission Hearing Room and simultaneously virtually via WebEx. Mr. Jonathan Smith and Ms. Jamie Reyes appeared on behalf of Commission Staff. No appearances were made on behalf of Extreme Nightlife.

## E V I D E N C E

### *Testimony*

Ms. Reyes, Department Director at the Commission, provided a statement on behalf of the Department. Ms. Reyes testified that Extreme Nightlife was granted its authority in 2020 as a special party and charter bus across all points in Nebraska utilizing one vehicle.<sup>1</sup> Ms. Reyes noted that Extreme Nightlife does not have a license on file with the Nebraska Liquor Control Commission.<sup>2</sup>

Ms. Reyes stated that the Department received notice that Extreme Nightlife's liability insurance lapsed on October 13, 2021. She noted that the Department has not received a new Form E liability insurance certificate nor has the Department received any communications from the company.<sup>3</sup> Ms. Reyes testified that the

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<sup>1</sup> Hrg. Transcr. 8:28 - 8:19 (November 30, 2021).

<sup>2</sup> *Id.* at 8:19 - 8:22.

<sup>3</sup> *Id.* at 8:23 - 9:4.

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order opening this docket was sent certified mail, return receipt requested. She explained that upon checking the certified mail return receipt number, the Department became aware that the mail was going to be returned to the department because the post office had too many unsuccessful attempts to deliver the order.<sup>4</sup> Ms. Reyes stated that she then directed Investigator Rocke to attempt personal service on the owner of the company.<sup>5</sup>

Ms. Reyes testified that the Commission has been granted the jurisdiction to require all common carriers to comply with any reasonably promulgated insurance rules. She explained that Commission rules require certain insurance minimums for common carriers and to possess certain amounts of for uninsured and underinsured motorist coverage.<sup>6</sup> Ms. Reyes stated that because Extreme Nightlife is out of compliance by not having the required liability insurance on file, the department would recommend that the carrier's Certificate of Public Convenience and Necessity be revoked.<sup>7</sup>

Mr. Greg Rocke, Senior Investigator for the Department, testified next. Mr. Rocke stated that his duties include conducting investigations, background checks and compliance checks as well as performing subpoena services. Mr. Rocke testified that on November 23, 2021, he personally served a copy of the order scheduling the hearing in this proceeding on Roberto Torres at his personal residence.<sup>8</sup> Mr. Rocke stated that Mr. Torres relayed to him that the company had not been operating for quite some time and he had no intention of getting back into business.<sup>9</sup>

The hearing concluded with no additional testimony. Exhibits one through four were entered into evidence.

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

Extreme Nightlife is a common carrier regulated by the Commission pursuant to Neb. Rev. Stat. §§ 75-101 et. seq. and 75-301 et. seq. (Cum. Supp. 2020), and Title 291, Chapter 3 of Commission Rules and Regulations.

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<sup>4</sup> *Id.* at 9:5 – 9:14.

<sup>5</sup> *Id.* at 9:15 – 9:22.

<sup>6</sup> *Id.* at 10:6 – 10:21.

<sup>7</sup> *Id.* at 10:22 – 11:1.

<sup>8</sup> *Id.* at 13:23 – 15:6.

<sup>9</sup> *Id.* at 15:9 – 15:21.

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Neb. Rev. Stat. § 75-315 states that certificates may be revoked after notice and hearing for willful failure to comply with Nebraska statutes governing the Commission, any Commission rule or regulations, or any term, condition, or limitation of a certificate. Pursuant to Neb. Rev. Stat. § 75-307(1), certificated carriers must comply with Commission rules regarding insurance and file those policies with the Commission. Commission Rules set forth the minimum insurance requirements for motor carriers transporting passengers on a for-hire basis.<sup>10</sup>

Evidence entered into the record shows that Extreme Nightlife's insurance was cancelled on October 13, 2021, as shown by the Form K Uniform Cancellation of Motor Carrier Insurance Policies entered into the record as Exhibit 1. Extreme Nightlife failed to update its insurance information after notification by the Department of the cancellation notice and has not contacted the Commission regarding its available options. No representative for Extreme Nightlife appeared at the hearing to show cause as to why its Certificate of Public Convenience and Necessity should not be revoked.

Based on the evidence presented, the Commission finds the Certificate of Public Convenience and Necessity issued to Extreme Nightlife, LLC, Lincoln, should be revoked for failure to comply with Neb. Rev. Stat. § 75-307(1) and 291 Neb. Admin. Code § 03-006.

### O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the show-cause against Extreme Nightlife, LLC, Lincoln, be, and is hereby, sustained.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity issued in Application No. B-1933 to Extreme Nightlife, LLC, Lincoln, be, and is hereby, revoked.

IT IS FURTHER ORDERED that any vehicle plates which have been assigned by the Commission must be returned to the Commission within ten (10) days of the effective date of this Order.

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<sup>10</sup> 291 Neb. Admin. Code § 03-003.03 and 006.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 4th day of January, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Rod Johnson*  
*Crystal Brader*  
*Mary Kadden*  
*Tim Schram*

*Don Watson*

Chair

ATTEST:

*Thomas W. Golden*  
Executive Director