

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Docket No. MT-0001.02
Public Service Commission, on)
its Own Motion, seeking to)
address certain carriers in) ORDER DISMISSING, IN PART AND
non-compliance with annual) SUSTAINING, IN PART
renewal requirements.)
)
) Entered: February 1, 2022

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 4, 2022, the Commission ordered certain listed carriers to show cause as to why their Certificates of Public Convenience and Necessity or Permits of Authority should not be suspended pursuant to Neb. Rev. Stat. § 75-315 for failure to timely remit annual renewal fees prior to January 1, 2022, in accordance with Neb. Rev. Stat. § 75-305. Notice of the show-cause hearing was published in The Daily Record, Omaha, Nebraska, on January 6, 2022.

On January 11, 2022, January 19, 2022, and January 25, 2022, the Commission entered Orders dismissing carriers from the show-cause proceeding that had completed all annual renewal requirements.¹

Hearing on this matter was held on January 25, 2022 in the Commission Hearing Room in Lincoln, Nebraska, as well as virtually via WebEx. Appearances were made by Mr. Dillon Keiffer-Johnson and Ms. Jamie Reyes on behalf of the Commission. No appearances were made by legal counsel or representatives of carriers subject to the show cause.

¹ See Docket No. MT-0001.02 *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: January 11, 2022); Docket No. MT-0001.02 *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: January 19, 2022); and Docket No. MT-0001.02 *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: January 25, 2022).

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E V I D E N C E

At the hearing, the Commission received ten 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. § 75-305.² Ms. Reyes noted that this is the first year in which the annual renewal requirements excluded household goods movers and any carriers providing transportation for railroad train crews due to a statutory change of Neb. Rev. Stat. § 75-305.³

Ms. Reyes read into the record the names of 36 passenger carriers remaining in this docket for discussion at the hearing.⁴ Ms. Reyes mentioned six carriers - Rockin n Rollin; Omaha Omaha Handicap Transportation Service, Stutheit Transportation Service, Inc.; Omaha Brew Bus; Beautiful Life Medical Transportation, LLC; and Mike's Transportation Services, LLC - that the Department would recommend dismissal. She elaborated that each of these carriers had completed their annual renewals prior to the hearing but were unable to be included on the January 25, 2022, Order to Dismiss, in Part.⁵ Ms. Reyes noted that the department is in the process of finalizing a revocation request filed on behalf of Papa G's, LLC.⁶ Ms. Reyes also explained that three other carriers - My Princess' Limo; Fremont Cab; and Dak Family Transportation, LLC - were working with staff to suspend their authorities.⁷

Ms. Reyes then testified that the carriers remaining in this docket were in various forms of non-compliance based upon combinations of no annual fee payment, no insurance certificate filing, or no equipment list confirmation.⁸ Ms. Reyes described the carrier Microsoft Excel spreadsheet list, received into the record as Exhibit 10, which detailed all annual renewal compliance tracking information for the carriers in question.⁹ Ms. Reyes noted that a good number of the carriers that remain have provided the Commission proof of current insurance but many carriers have not

² MT-0001.02 Transcript, 9:23 - 10:16

³ TR 10:17 - 11:1.

⁴ TR 11:13 - 12:18.

⁵ TR 12:19 - 13:8.

⁶ TR 13:9 - 13:17.

⁷ TR 13:18 - 14:7.

⁸ TR 14:8-13.

⁹ TR 14:14-19.

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taken any steps to come into compliance.¹⁰ Ms. Reyes recommended that the Commission suspend those carriers that are in some form of noncompliance until such a time as they meet their annual renewal obligations and the Commission take no action against those carriers who have completed their annual renewal requirements prior to the hearing or who are in the process of suspending their authorities on their own.¹¹

Ms. Reyes concluded her testimony by noting that according to departmental records several carriers - TAA, LLC d/b/a Big Premier Limousine; Prosperity Properties; Prime Time Shuttle Service; Davis Entertainment d/b/a Ollie the Trolley; Hope Park Transport; Executive Coach, LLC; Dillard Lewis d/b/a Highland Express; Dashabout Roadrunner, Inc.; and 9 Line Medical Solutions, LLC - may not have received official notification of the hearing, specifically receipt of the January 4, 2022, Order to Show Cause. She noted that this Order was sent out via certified mail return-receipt requested.¹² Ms. Reyes stated that prior to the hearing, the department was able to confirm that Dillard Lewis did receive notice of the hearing, but no return-receipt has been received at this time.¹³ Ms. Reyes explained that there is a combination of notice provided to carriers that this process was happening and that adverse action would be taken if annual renewals were not completed by January 1. As such, Ms. Reyes stated that she would still recommend suspension of these authorities.¹⁴

When questioned about the perennial issue of untimely annual renewal compliance, Ms. Reyes explained that the department can see improvement in the number of carriers that complete their annual renewal on time. She noted that the department wants carriers to understand the expectations and consequences that come with the department's policies and procedures.¹⁵

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

¹⁰ TR 14:19-24.

¹¹ TR 14:25 - 15:20.

¹² TR 15:22 - 16:14.

¹³ TR 16:15-23.

¹⁴ TR 16:24 - 17:17.

¹⁵ TR 17:22 - 18:19.

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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.¹⁶

As of the date of the hearing, 36 carriers had not fully complied with the annual renewal requirements. Evidence shows that all carriers but eight received some or all notices sent on or around November 1, 2021 and January 4, 2022.

The Commission finds that nine carriers shall be dismissed from the docket for completing their annual renewals; one carrier should be dismissed due to revocation of its certificate; three carriers should proceed with their voluntary suspension requests; Eighteen (18) carriers should be given until March 1, 2022 to fulfil their annual renewal obligations; and the remaining carriers should be suspended. These decisions will be discussed below.

Carriers Dismissed

Rockin n Rollin; Omaha Omaha Handicap Transportation Service, Stutheit Transportation Service, Inc.; Omaha Brew Bus, LLC; Beautiful Life Home Care d/b/a Beautiful Life Medical Transportation, LLC; and Mike's Transportation Services, LLC completed all compliance requirements prior to the hearing but could not be included in the January 25, 2022 Order to Dismiss, in Part. 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.

Further, Dillard Lewis d/b/a Highland Express, Eastern Nebraska Community Action; Grand Island Party Bus, LLC; and Xtreme Ride, LLC, completed all compliance requirements after the January 25, 2022 hearing. As these carriers have 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.

Finally, the Commission received an application on behalf of Papa G's, LLC, requesting revocation and cancellation of its certificate of authority. As such, the Commission finds that no

¹⁶ Neb. Rev. Stat. § 75-315 (Cum. Supp. 2020).

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action will be taken as it relates to Papa G's, LLC and it is therefore dismissed from the docket. The Commission will enter an order in a separate docket regarding the authority cancellation request.

Voluntary Suspension Requests

My Princess' Limo Service, LLC; Fremont Cab Service, LLC; and Dak Family Transportation, LLC have all contacted the Commission to start the process to voluntarily suspend their services for a period of time. Therefore, the Commission finds that no action will be taken as it relates to these carriers, and they should be dismissed from the docket. Each carrier's suspension request will be handled in their respective dockets.

Carriers with Incomplete Compliance

The following carriers were found to have completed some aspect of their annual renewal compliance:

Big A Holdings d/b/a OMALiNK; Caring Hearts Transportation; Davis Entertainment d/b/a Ollie the Trolley; Executive Coach, LLC; Hope Park Transport; Kearney Cab Company; Prosperity Properties, Inc.; Ronald D. Allgood d/b/a Tree City Cab Company; Student Transportation of Nebraska; TAA, LLC, d/b/a Big Premier Limousine; Unity Transportation Services, Inc.; WADDI d/b/a Wings of Love; WHC NE, LLC, d/b/a Airport Transportation & zTrip; WHC NE, LLC, 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; and WHC NE, LLC, d/b/a Yellow Cab & zTrip

These carriers have taken some action - filing proof of current insurance, remitting their annual renewal payment, or confirming their active vehicles - to progress the completion of their annual renewal obligations. The Commission finds that the performance of these carriers to take some of the required steps of annual renewal completion merit consideration. As such, the Commission finds that the authorities held by these carriers will not be suspended, but these carriers must continue to cooperate with Commission staff until their annual renewals are complete. These carriers are reminded that failure to complete their annual renewals by March 1, 2022, will result in the assessment of administrative fines and possible action against their authorities.

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Remaining Carriers

The following carriers were found to have not taken any steps toward compliance as of the hearing:

9 Line Medical Solutions, LLC; Black Diamond S&S; Christopher M. Beerbohm; Dashabout Roadrunner, Inc.; First Student, Inc.; Lunjini Medical Transportation, LLC; Prime Time Shuttle Service; Serving Nebraska Health Transportation; The Happy Bus, LLC; Thomas Transportation

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 suspended those carriers in non-compliance with the requirements set forth by the Commission for annual renewal pursuant to Neb. Rev. Stat. § 75-305. The Commission ordered those carriers' certificates and/or permits of authority be suspended as well as ordering those carriers to cease and desist from providing any for-hire transportation services within the State of Nebraska. Each authority remained suspended until the Commission entered an Order to reauthorize the provision of services.

The Commission must once again determine what action, if any, should be taken against the remaining carriers who have yet to complete their annual renewals. Evidence presented at the hearing indicated that carriers were given reasonable notice of all requirements and the dates those items were to be received. Annual fees and required documentation are due the same time each year, with no deviation. Carriers are notified of the possible

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consequences of not adhering to the due dates from the outset. It is of note that no representative of any carrier subject to the hearing made an appearance. The Commission maintains its stance that the public interest is best served with as many options as possible for safe, reliable transportation. However, there is potential harm if non-registered and/or non-insured vehicles are allowed to operate on Nebraska roads. Carriers have an ongoing obligation to illustrate their fitness to hold a certificate or permit of authority by adhering to all Nebraska statutes, Commission Orders, policies, and rules and regulations. Failure to comply with annual renewal requirements calls that fitness into question, especially for those carriers who repeatedly fail to timely complete their annual renewal requirements or are named in 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 renewals pursuant to Neb. Rev. Stat. § 75-305. For that reason, the Certificates of Public Convenience and Necessity and/or Permits of Authority of these carriers are hereby suspended. These carriers must cease and desist from providing any for-hire transportation services within the State of Nebraska as of the effective date of this Order. Each authority will remain suspended until such a time as all annual renewal requirements are complete and the Commission issues an Order to reauthorize the provision of services.

Carriers are reminded that all annual renewal compliance will be considered delinquent on March 1, 2022 pursuant to Neb. Rev. Stat. § 75-305. In addition to the ongoing suspension, any delinquent carriers will be subject to further Commission action, including administrative fines and revocation of a carrier's certificate or permit of authority.

Because non-compliance with annual renewal requirements continues to be an issue, the Commission plans to explore whether to add additional penalties for non-compliance. Additional penalties could include late fees assessed beginning January 1 instead of March 1, and/or increased late fee amounts for those carriers that have been repeatedly late in complying with annual renewal requirements. Any changes to the current policies will be communicated to carriers well in advance of the start of the annual renewal period in November.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Rockin n Rollin; Omaha Omaha Handicap Transportation Service, Stutheit Transportation Service, Inc.; Omaha Brew Bus, LLC; Beautiful Life Home Care d/b/a Beautiful Life Medical Transportation, LLC; Mike's Transportation Services, LLC; Dillard Lewis d/b/a Highland Express; Eastern Nebraska Community Action; Grand Island Party Bus, LLC; and Xtreme Ride, LLC, be, and are hereby, dismissed.

IT IS FURTHER ORDERED that My Princess' Limo Service, LLC; Fremont Cab Service, LLC; and Dak Family Transportation, LLC, be permitted to voluntarily suspend their authorities and be dismissed from this docket.

IT IS FURTHER ORDERED that Big A Holdings d/b/a OMALiNK; Caring Hearts Transportation; Davis Entertainment d/b/a Ollie the Trolley; Executive Coach, LLC; Hope Park Transport; Kearney Cab Company; Prosperity Properties, Inc.; Ronald D. Allgood d/b/a Tree City Cab Company; Student Transportation of Nebraska; TAA, LLC, d/b/a Big Premier Limousine; Unity Transportation Services, Inc.; WADDI d/b/a Wings of Love; WHC NE, LLC, d/b/a Airport Transportation & zTrip; WHC NE, LLC, 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; and WHC NE, LLC, d/b/a Yellow Cab & zTrip continue to cooperate with Commission staff to complete their annual renewal obligations prior to March 1, 2022 and are hereby dismissed from this docket.

IT IS FINALLY ORDERED that the show-cause against 9 Line Medical Solutions, LLC; Black Diamond S&S; Christopher M. Beerbohm; Dashabout Roadrunner, Inc.; First Student, Inc.; Lunjini Medical Transportation, LLC; Prime Time Shuttle Service; Serving Nebraska Health Transportation; The Happy Bus, LLC; Thomas Transportation; be, and is hereby, sustained and the named carriers are hereby suspended and ordered to cease and desist providing transportation services within the State of Nebraska pursuant to their Certificates of Public Convenience and Necessity or Permits of Authority as prescribed herein.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 1st day of February, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Crystal Swader
Mary Keddin
Tim Schram

Don Watson

Chair

ATTEST:

Thomas W. Golden
Executive Director