

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the) Application No. B-2024
Application of Families and)
Connections Transporting)
Services, LLC, Omaha, seeking)
authority as a contract carrier)
in Nebraska intrastate commerce)
in the transportation of)
passengers in open class)
service within Douglas and)
Sarpy counties, and between) ORDER WITHDRAWING APPLICATION
said counties, over irregular)
routes pursuant to a contract)
with the Nebraska Department of)
Health and Human Services, a)
Medicaid-managed care)
organization under contract)
with NDHHS, or another agent)
working on behalf of NDHHS.)
RESTRICTIONS: HHS Designation:)
Yes.) Entered: June 7, 2022

BY THE COMMISSION:

On September 7, 2021, Families and Connections Transporting Services, LLC ("Applicant"), Omaha, Nebraska, filed an application seeking authority as a contract carrier in Nebraska intrastate commerce in the transportation of passengers in open class service within Douglas and Sarpy counties, and between said counties, over irregular routes pursuant to a contract with the Nebraska Department of Health and Human Services, a Medicaid-managed care organization under contract with NDHHS, or another agent working on behalf of NDHHS. HHS Designation is yes. Notice of the Application was published in The Daily Record, Omaha, Nebraska, on December 7, 2021.

On December 21, 2021, protests were filed by Camelot Transportation, Inc., and Triumph Transportation, Inc. (together, "Protestants"). Protests were granted on January 20, 2022. On March 7, 2022, an Order Scheduling a Planning Conference was entered by the Hearing Officer, scheduling a planning conference for March 10, 2022.

On March 10, 2022, a planning conference was held to discuss a procedural schedule and set a hearing date. Dillon Keiffer-

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Johnson appeared on behalf of the Commission. The following appeared via telephone: Ms. Janelle Hardiman on behalf of Applicant and Mr. Andy Pollock of Rembolt Ludtke LLP on behalf of Protestants. A Hearing was set to be held on April 4, 2022.

Parties met via WebEx on April 1, 2022, to discuss Applicant's proposed service plans to determine whether Applicant's proposed service would qualify as an exempted service under *Neb. Rev. Stat.* § 75-303. All parties and Commission staff agreed to postpone the April 4, 2022, hearing to allow for further discussion. On April 1, 2022, the Hearing Officer entered an order cancelling the hearing.

After the April 1, 2022 Webex meeting, Applicant filed its business plan and explanation of its proposed services. On April 5, 2022, all parties were informed by Commission staff that it was the opinion of the Commission staff that the services proposed by Applicant in her application and supplemented by a later filed business plan would be exempt under *Neb. Rev. Stat.* §75-303. On April 7, 2022, Applicant formally requested to withdraw its application seeking authority as a contract carrier. Protestants did not object to the exemption and withdrawal request.

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

Under *Neb. Rev. Stat.* § 75-303, the transportation of passengers by a regulated motor carrier for hire in intrastate commerce is exempted from the authority of the Public Service Commission in several specifically enumerated circumstances, including: "A motor carrier engaged in attended services under contract or subcontract with the Department of Health and Human Services or with any agency organized under the Nebraska Community Aging Services Act"¹ and "A motor carrier engaged in supported transportation services if the motor carrier complies with the requirements of the Department of Health and Human Services adopted, promulgated, and enforced to protect the safety and well-being of the passengers, including insurance, training, and age requirements".²

Applicant's business plan alleges that they would provide transportation services to either children or parents to and from their court appointed visitation. Applicant states that people

¹ *Neb. Rev. Stat.* §75-303(14).

² *Neb. Rev. Stat.* §75-303(16).

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operating in this capacity would be titled as "visitation professionals". Applicant states that these visitation professionals would serve in a supervisory capacity for the court appointed visit, providing "behavioral intervention, emergency intervention, parent coaching, and nutritional education" during the visit. This position would require a trained and certified staff who are "qualified in supervising a family visit".

Commission staff have advised the Commission that Applicant is exempted from the authority of the Public Service Commission under *Neb. Rev. Stat. §75-303(14) & (16)*.

After due consideration and being fully advised in the premises, the Commission is of the opinion and finds that Families and Connections Transporting Services, LLC, Omaha, is providing motor carrier services exempted under *Neb. Rev. Stat. §75-303(14) & (16)* and its request to withdraw its contract carrier application should be granted. If Families and Connections Transporting Services, LLC wishes to provide transportation services that do not qualify as exempt services in the future, they should contact the Commission prior to providing those services.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission, on its own motion, that the Application of Families and Connections Transporting Services, LLC, Omaha, is hereby withdrawn.

IT IS FURTHER ORDERED that Families and Connections Transporting Services, LLC be, and is hereby, exempt as provided herein.

IT IS FINALLY ORDERED that, should Families and Connections Transporting Services, LLC, Omaha, deviate from exempted motor carrier services under *Neb. Rev. Stat. §75-303(14) & (16)*, they shall immediately contact the Commission.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 7th day of June, 2022.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Crystal Brader
Mary Kidden
Tim Schram

Don W. Johnson
Chair

ATTEST:

Thomas W. Golden
Executive Director