

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application)	APPLICATION NO. B-1144
of Brown's Crew Car of Wyoming,)	SUPPLEMENT NO. 3
Inc., dba Armadillo Express,)	
Cheyenne, Wyoming.)	ORDER NUNC PRO TUNC
)	AND
)	ORDER OF DECEMBER 11,
)	1990 REVOKED
)	
)	ENTERED: January 3, 1991

BY THE COMMISSION:

OPINION AND FINDINGS

In its Order entered in the matter in caption on October 4, 1990, the Commission intended to grant that part of the Applicant's application which was not contested by the Protestant. This portion of the application amounted to passenger service throughout Nebraska with certain exceptions. The October 4, 1990 Order failed to correctly reflect the intent of the Commission in this regard. Consequently, the Commission entered an Order Nunc Pro Tunc on December 11, 1990 which granted authority to the Applicant as follows:

SERVICE AND TERRITORY AUTHORIZED:

Passengers and their baggage, between points in Nebraska over irregular routes. Restrictions: Restricted against service (a) to, from or between points in Washington, Dodge, Saunders, Douglas, Sarpy and Cass counties, Nebraska performed using taxi cabs, luxury limousines, or vehicles having a rated capacity of less than ten passengers; and (b) to, from or between points in Richardson County, Nebraska; and (c) except railroad train crews and their baggage between Omaha and Fremont." (emphasis supplied)

The word "except" in subdivision (c) is ambiguous. The Commission did not intend for an interpretation that the Applicant is not restricted against the transportation of railroad crews and their baggage between Omaha and Fremont. On the contrary, the Applicant is prohibited against the transportation of railroad train crews and their baggage. Therefore, the prior Nunc Pro Tunc Order of December 11, 1990 should be revoked and a new Order Nunc Pro Tunc be entered in its place to remove the ambiguity as follows:

From the evidence adduced and being fully informed in the premises, the Commission finds that the Applicant is fit, willing, and able properly to perform the service proposed and

conform with the statutes and rules of the Commission thereunder; and the proposed intrastate service is or will be required by present or future public convenience and necessity to the following extent:

SERVICE AND TERRITORY AUTHORIZED:

Passengers and their baggage, between points in Nebraska over irregular routes. Restrictions: Restricted against service (a) to, from or between points in Washington, Dodge, Saunders, Douglas, Sarpy and Cass counties performed using taxi cabs, luxury limousines, or vehicles having a rated capacity of less than ten passengers; and (b) to, from or between points in Richardson County; and (c) to railroad train crews and their baggage between Omaha and Fremont.

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that its Order Nunc Pro Tunc entered herein December 11, 1990 be, and it is hereby, revoked.

IT IS FURTHER ORDERED by the Commission that the Order entered herein October 4, 1990 be, and it is hereby, modified nunc pro tunc to grant the authority set forth in the foregoing findings.

MADE AND ENTERED at Lincoln, Nebraska, this 3rd day of January, 1991.

NEBRASKA PUBLIC SERVICE COMMISSION

Daniel S. Urwiller
Chairman

ATTEST

Debra R. King
Executive Director

COMMISSIONERS CONCURRING:

Duane D. Gay
//s//Frank E. Landis, Jr.
//s//James Munnelly
//s//Eric Rasmussen
//s//Daniel G. Urwiller