

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of Image) APPLICATION NO. B-1399
Limousine Service, Hastings, Nebraska,)
seeking authority as a common carrier in)
Nebraska intrastate commerce in the)
transportation of passengers and their)
baggage by limousine between points in)
Hall, Adams, Buffalo, Kearney, Fillmore,) GRANTED IN PART
Franklin, Webster, Clay, Nuckolls, Thayer))
and York counties on the one hand, and,)
on the other hand, points in Nebraska)
over irregular routes. Restriction:)
Transportation of railroad train crews)
and their baggage is not authorized.) ENTERED: FEBRUARY 5, 1996

APPEARANCES: For the Applicant:
Brad Moncrief, Esq.
810 Underwood
Hastings, NE

For the Protestants
Special Moments Limousine Service,
Your Own Limousine Service, and
O'Rourke & O'Rourke Buggy Rentals, Inc.:
James McNally, Esq.
P.O. Box 164
Neligh, NE

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed October 2, 1995, Image Limousine Service seeks authority to transport passengers and their baggage by limousine between points in Hall, Adams, Buffalo, Kearney, Fillmore, Franklin, Webster, Clay, Nuckolls, Thayer, and York counties, on the one hand, and, on the other hand, points in Nebraska over irregular routes, except transportation of railroad train crews and their baggage. Notice of the application was published in The Daily Record, Omaha, Nebraska, on October 4, 1995, pursuant to the rules of the Commission. Timely Protests to the application were filed by Todd Kober, dba Your Own Limousine; O'Rourke & O'Rourke Buggy Rentals, Inc.; Trease Enterprises, Inc., dba Special Moments Limousine; and Sandhills Limos, Inc.

Hearing on the application was held December 13, 1995, at Hastings with appearances as shown.

Applicant produced seven witnesses.

Marty Miller testified: He is a travel agent in Hastings. He has had requests for limousine service for a variety of purposes such as a wedding or special party or transportation to the airport. In his opinion in this area of the country, transportation is continually being reduced and the more service of this kind the better. He does business with residents of Adams, Buffalo, Kearney, Fillmore, Franklin, and Webster counties. At some point in the last 16 years, he has done business with Clay, Nuckolls, Thayer, York, and Hall

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county residents. He books limousines occasionally. He does not do it a lot because of the availability of the service. Only one limousine is listed in the Yellow Pages. He has no records of any contacts from any of the counties mentioned for limousine service. He has heard comments several times that people were unable to book limousine service because the present carriers were full.

Louanna Unger testified: She lives in Doniphan in Hall County. She has a bookkeeping service in Hastings. Her parents-in-law would use limousine service when they visit her from out of state. Her mother-in-law is aging. Her mother-in-law has rented a car in the past but would use limousine service if it were available. There is no limousine service available in Hastings. The closest is Grand Island. She has wanted limousine service at least five times and was unable to obtain it. She cannot remember specific dates.

Belinda Nuss testified: She lives in Sutton in Clay County. She works in Hastings as a bookkeeper. She has a teenage daughter that she would like to have use a limousine for proms and certain special events. Parents of teenagers would feel better with a responsible adult driving them around than having the teenagers on the road driving themselves. She would expect to find a limousine service in Hastings. She is not aware of any other limousines that may serve Clay County. If there was a limousine service available in Hastings, she thinks many people from her county would use it. No limousine service is listed in the Lincoln Telephone and Telegraph phone book for Hastings. That book serves Clay County also.

Bob Sims testified: He lives in Bladen, Webster County, Nebraska. He is a licensed nurse. The medical profession is a large close-knit group which has gatherings at which the members want to have limousine service. At celebrations involving medical people, there will probably be drinking. The medical profession does not promote drinking and driving. Limousine services serve the designated driver purpose for the public. He does not know of any limousine service in Webster County. He hopes that he can afford to hire a limousine for each of his seven children when they go to proms. He did not know that three limousine services have authority to work in Webster County now. He had not tried to book limousine services, but a group of nurses in which he is involved found it was absolutely impossible to book limousines on the dates they had set. They wanted the limousine for August 1995.

Don Reynolds testified: He is the president of the Hastings Area Chamber of Commerce. He is also on the South Platte United Chamber of Commerce which includes Hamilton, Clay, Nuckolls, and all counties west of the Colorado border. Because of his occupation, he has received a number of calls around prom time for limousine service. Other calls come throughout the year as families plan for weddings and things like that. He tells inquirers that no member of the Chamber provides limousine service and there is no listing in the Hastings phone book about limousine service. He thinks it is important to the community to have limousine service. Exhibit 1 is a letter he wrote to the Commission regarding this application. When he said that there

is no limousine service advertised, he was referring to the Lincoln Telephone Company phone book. Exhibit 2 shows the ad of Special Moments Limousine Service in the Grand Island phone book.

Doran Houssler testified: He is executive director of the Hastings Economic Development Corporation. He is also on the board of Good Samaritan Village. He thinks it would be difficult for the protestants to invest enough in equipment to be able to serve the needs of the three metropolitan areas of 100,000 to 150,000 population within a 30-mile radius of Hastings, Grand Island, and Kearney. The application of Mr. Conrad is justified. If Hastings is served at all, it is a secondary market.

Charles Conrad testified: He is one of the owners of the applicant. Applicant purchased its limousine in February 1990. The car was bought for personal use. Then people started contacting them to rent the car. They decided they should start a business. They have had at least a dozen calls since the public saw the limousine on the streets. Sharon Meyers of Hastings inquired about service. Another inquiry came from the Deweese area in Clay County. People have asked for the service for weddings and school dances. Holiday Inn has asked for service. Another inquirer wanted to know if the service was available to pick up a new mother and baby at the hospital and take them home. Companies have told him that there is a need for a limousine that is not being served. He will operate the service in evenings and on weekends. A driver will be hired to drive the limousine during the day. Applicant intends to start business with a 1983 Cadillac 60-inch stretch limousine.

Protestant Special Moments Limousine produced one witness, Dwaine Allen Trease, who testified: He operates Special Moments Limousine in Clearwater and Grand Island. The authority under which he operates includes all the counties for which the applicant has applied. The Grand Island office is manned from 9 to 5 during the week and from 9 to noon on Saturday. An answering machine handles the calls when the office is closed and forwards them to a manager in Grand Island or Clearwater. A toll-free number is offered. Special Moments operates a 1985 Cadillac 48-inch stretch, 1988 Lincoln 130-inch stretch, and a 1989 Lincoln 116-inch stretch. One of the super stretches is based in Clearwater and the other super stretch and Cadillac are in Grand Island. It employs 14 drivers, all part time. Special Moments has booked 15 trips in Adams County in the last year and a half. It is possible that during the prom season, Special Moments has been unable to supply limousine service to Hastings. He refers bookings he cannot handle to the other limousine service in Grand Island. If he saw the need to place a vehicle in Hastings, he would do it. A customer in Adams County would be charged for the mileage between Grand Island and the pickup point. From Grand Island to Hastings would cost \$25 for mileage. It would cost more to run to Red Cloud or Thayer County or Hebron. He has not done any business in the York area. No service has been provided to Nuckolls or Webster counties.

Protestant Your Own Limousine Service produced one witness, Todd Kober, who testified: He operates Your Own Limousine Service from Grand Island. He has authority in Hall County and every county

surrounding Hall County. He operates a 1988 Cadillac 120-inch stretch and a 1988 Lincoln 60-inch stretch and a 1987 Cadillac 54-inch stretch. He has an office in Grand Island open 8 to 5 and then he takes calls after hours at his home. He hires 9 drivers, mostly part time. He and his wife also drive themselves. He often does business in Hastings. He estimates he has had 20 bookings in Hastings in the last two years. There has never been a time when he could not supply a limousine in Adams County. His business is expanding. The five counties he operates in that conflict with this application are: Adams, Clay, Hall, Buffalo, and York. He sends fliers to Hall County schools but no others. He charges driving time one way from the terminal to the pickup which works out the same as a charge for empty miles.

O'Rourke & O'Rourke Buggy Rentals, Inc. produced one witness, Jerry O'Rourke, who testified: He lives in Kearney. He is the sole stockholder of the protestant corporation. He owns a 1994 Lincoln Towncar 120-inch stretch. Protestant is authorized to serve the area that applicant proposes to serve. He does a little business in Adams County, one or two jobs a month. Most of his Hastings business comes from his association with the St. Cecilia Parish. He would consider opening a terminal in Adams County if he were to get an influx of calls over a period of time. He sees no need for locating there at the present time. His client base is expanding rapidly so that he can hardly handle it. He has served York County once in the last year. He has not served Nuckolls, Webster, Fillmore, or Thayer. He has served Hall County 25 to 30 times in the last year. He has served Franklin County three or four times for weddings. He has served Adams County five or six times in the last year. He has served Kearney County 10 to 15 times. On a trip to Hastings, he would charge his hourly charge one way. He is willing to serve the counties in which he has not operated.

Section 75-311 (1995 Supp.) in pertinent part states:

(1) A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application, if it is found after notice and hearing that (a) the applicant is fit, willing and able properly to perform the service proposed, and to conform to the provisions of sections 75-301 to 75-322 and the requirements, rules, and regulations of the commission under such sections and (b) the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, passenger or household goods, is or will be required by the present or future public convenience and necessity. Otherwise, the application shall be denied. ***

Although applicant failed to adduce any evidence of financial fitness, the Commission will take notice of the financial statement filed with the application which shows that the partnership of John Hanson and Charles E. Conrad has a net worth of \$7,700 which includes a \$6,000 automobile, other assets of \$4,000 and \$200 cash in the bank. The only liability shown by the partnership is a \$2,500 secured note. The evidence shows that the applicant has at least one piece of

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equipment suitable to provide the service proposed. Although the record does not show that either of the partners has any experience in the motor transportation field, the record does not indicate any reason why the partners could not manage an operation of the nature of the business for which they propose to operate. From the files and records and evidence adduced, the Commission can conclude that applicant is fit, willing and able properly to perform the service proposed and to conform with the rules of the Commission thereunder.

On the issue of public convenience and necessity, the record is exceedingly slim. Considerable hearsay testimony entered into the record without objection would indicate that there is a demand in Adams County for the type of service applicant proposes to offer. Mrs. Unger offered testimony that she would use the service from Hall County. Mrs. Nuss testified to a need for the service in Clay County. Mr. Sims testified to a need for service in Webster County. No evidence was adduced as to the need for service in any other counties for which applicant applies.

Although protestants testified to having done business in Adams County, their testimony showed that it would be substantially cheaper for Adams County residents to obtain service from applicant than any of the protestants due to the deadhead charge. By granting applicant authority to operate in Adams, Clay, Hall and Webster counties, it would afford the public limousine service at a much more reasonable rate than the protestants can provide. These same economics will operate against applicant where service to Hall County is concerned. The evidence indicates that operations between Hastings and Grand Island would be primarily airport traffic. Such traffic would not have a significant impact on the protestants but would afford Hastings' residents a valuable service.

From the evidence adduced and being fully informed in the premises, the Commission is of the opinion and finds the application should be granted in part and a Certificate of Public Convenience and Necessity should be granted which authorizes applicant to provide limousine service between points in Adams, Webster, Clay and Hall counties.

From the evidence adduced and being fully informed in the premises, the Commission is of the opinion and finds:

1. Applicant is fit, willing, and able properly to perform the service proposed and to conform with the statutes and the rules of the Commission thereunder.
2. The proposed intrastate service is or will be required by the present or future Public Convenience and Necessity to the following extent:

CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Transportation of passengers and their baggage by limousine between points in Adams, Webster, Clay and Hall counties over irregular routes. Restriction: Transportation of railroad train crews and their baggage is not authorized.

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3. The application should be granted in part.

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application B-1399 be, and it is hereby, granted in part; and that upon compliance with the terms and conditions set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Image Limousine Service, Hastings, Nebraska, in Application B-1399, authorizing the operations set forth in the foregoing findings.

IT IS FURTHER ORDERED that applicant shall not be issued the Certificate of Public Convenience and Necessity authorized by the Commission unless and until applicant has fully complied, within a reasonable time from the effective date of this Order, with Sections 75-305 (fees), 75-307 (insurance), and 75-308 (rates), R.R.S. 1943, as amended, and with the rules and regulations of the Commission; and if upon expiration of such time applicant has not complied with such terms and conditions, this Order shall, after reasonable notice to applicant, be of no further force and effect.

IT IS FURTHER ORDERED that applicant shall not conduct operations until a Certificate of Public Convenience and Necessity is issued.

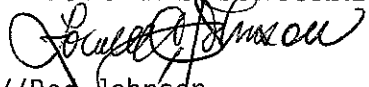
IT IS FURTHER ORDERED that applicant shall render reasonably continuous and adequate service to the public pursuant to the authority authorized.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity authorized shall be subject to the terms, conditions, and limitations which have been, or may hereafter be, prescribed by the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 5th day February, 1996.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


 //s//Rod Johnson
 //s//Frank E. Landis
 //s//James F. Munnely
 //s//Daniel G. Urwiller

Chairman 

ATTEST:


 Executive Director