

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application	)	Application No. B-1410
of DonMark, Inc., dba Cornhusker	)	
Cab Co., Papillion, seeking	)	
Commission approval to waive the	)	WAIVER REQUEST DENIED
vision requirement for driving a	)	
motor vehicle.	)	Entered: March 20, 2001

By the Commission:

By affidavit filed February 2, 2001, DonMark, Inc., dba Cornhusker Cab Company, of Papillion, Nebraska (Applicant), seeks approval to continue employment of Hashi A. Mohamed as a taxi operator. Commission Rule 05.01B, Chapter 3, Title 291, requires vehicle operators to have a visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; and form a field of vision in the horizontal meridian of not less than a total of 140 degrees. Because Mr. Mohamed's vision does not meet the visual acuity requirements in Rule 005.01B, the applicant seeks a waiver of this rule.

Waivers to our Motor Carrier Rules are available only where specifically provided. (See, Motor Carrier Rules and Regulations, Rules 010.01D, 010.01E3, 010.01L3, and 010.01M, e.g.) Changes in Commission rules are permissible only through a rulemaking process as provided in the state's Administrative Procedure Act, codified at Neb. Rev. Stat. § 84-902 et seq.

The Commission sympathizes with Mr. Mohamed's position, but cannot ignore the Commission rules that apply to the facts and circumstances set forth in the Applicant's request, especially where the applied rules contain no provision for Commission waiver.

Because the Commission's rule 05.01B clearly restricts Mr. Mohamed from operating a taxi in the State of Nebraska, and because this rule is not waiveable, we have no choice but to find that the applicant's waiver request should be denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Applicant's February 2, 2001, waiver request be, and it is hereby denied.

Application No. B-1410

Page 2

MADE AND ENTERED at Lincoln, Nebraska, this 20th day of March 2001.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Quinn Johnson*

*Aune C. Boyle*

*Frank E. Landis*

//s//Frank E. Landis

*Frank E. Landis*  
Chairman

ATTEST:

*Ad S. Pollock*  
Executive Director