

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) APPLICATION NO B-1428  
of Second Chance Classics, Gibbon, )  
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, and Buffalo counties and ) GRANTED AS MODIFIED  
between points within said )  
counties, on the one hand, and, )  
on the other hand, points in )  
Nebraska over irregular routes. )  
RESTRICTION: The transportation )  
of railroad crews and their )  
baggage is not authorized. ) ENTERED: June 11, 1997

APPEARANCES: Jack L. Schulz, Esq.  
P. O. Box 82028  
Lincoln, NE 68501

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed February 3, 1997, Second Chance Classics of Gibbon, seeks authority as a common carrier in Nebraska Intrastate Commerce in the transportation of passengers and their baggage by limousine between points in Hall, Adams, and Buffalo counties and between points within said counties, on the one hand, and, on the other hand, points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized.

Notice of the application was published in the Daily Record on February 12, 1997. Protests to the application were filed by O'Rourke & O'Rourke Buggy Rentals dba J & M Limousine Service on February 27, 1997, by Todd Kober dba Your Own Limousine Service on March 6, 1997, and by Trease Enterprises, Inc. dba Special Moments Limousine on March 10, 1997. Hearing on the application was held April 30, 1997 with appearances as shown. Applicant produced five witnesses.

Keith Bond testified: He is the manager of the applicant. Applicant proposes to use a reproduction 1933 Packard Town Car limousine which is described in Exhibits 1 and 2. The car's body is manufactured from fiberglass. It is modernized to incorporate required safety features. The business is owned by Dwight and Sheila Bond. He and other employees of applicant would drive the limousine. Background checks would performed on other drivers. The service would be

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dispatched through a secretary Monday through Friday 8:00 a.m. to 5:00 p.m. Arrangements will be made for answering calls in off hours. The financial statement submitted with the application generally reflects the present financial statement of the applicant. Applicant has received requests to provide service in the vehicle. No for-hire service has been performed. The service would be advertised in the yellow pages and through bridal shows and general exposure of the car. Applicant is in a position to augment its fleet with additional vehicles. Applicant is primarily in the business of selling cars. He has had requests for service from Kearney, Hastings, and Hall county. The car includes a roll cage in the rear, made out of one-inch square tubing that is tied to the frame and the body.

Aaron Nutter testified: He is a self-employed building contractor. He was recently married and would have used the proposed service if it has been available for his wedding. He would use the vehicle in the Kearney area. He has not had occasion to use the services of any of the protestants. He used applicant's service without charge.

Cheryl Lockwood testified: She would like to use applicant's service for her daughter's wedding in August. The attraction of applicant's service was the unique nature of the vehicle. Her daughter's wedding will be in Hastings and she wants transportation within that city. In the afternoon she spent in Kearney looking at the cars available, she did not see anything that she thought was of the nature of the Packard. Exhibit 3 which shows a classic limousine shows a lovely car, but she would choose the Packard.

Daryl Kuszak testified: He is a self-employed photographer. If the application were granted, he would be in a position to refer business to the applicant, and intends to do so. There is a possibility he would want to rent the limousine himself. He has not had occasion to use the services of the protestants. He considers the car shown in Exhibit 3 to be unique, but not a classic.

Julie Axmann testified: She is co-owner of Chantilly Bridal and Party in Kearney. She may have occasion to use applicant's services. She has a 19 year-old daughter who will be getting married. She has a retail bridal and party store and receives a lot of inquiries about limousine service in the area. On a number of occasions she had the opportunity to do business with the protestants. She feels they do a wonderful business. If the application were granted, she would continue to include them in her list of referrals. She thinks the protestants provide adequate service, but it is different from what Mr. Bond offers.

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The protestants produced three witnesses.

J. Gerry O'Rourke testified: He is president and sole stock holder of O'Rourke & O'Rourke Buggy Rentals, Inc. which operates J & M Limousine Service. (J & M). No complaints have been filed against J & M in the 11 years it has operated. It is capable of providing any service requested. He has no animosity toward the applicant. One of the witnesses is soon to be a client of his. The service that the protestants offer is adequate. If he needs an extra vehicle, he has two other gentlemen to call for extra vehicles. If they need an extra vehicle, they have him to call. The protestants cover all of Buffalo and Adams counties adequately. There is no need for additional service. He does not know that applicant would be able to obtain traffic he previously enjoyed. He is protesting to protect his investment and the working relationship he has had with the other protestants.

Dwaine Trease testified: He owns Special Moments. It has locations in Grand Island and Clearwater. It has four limousines. He feels that Special Moments and the protestants are taking care of the needs of the counties satisfactorily. Special Moments also offers a classic limousine. It was purchased 14 months ago. It has attracted a lot of attention. Bigger parties require a super stretch. He does not think the applicant's vehicle is very safe if it were involved in an accident. He feels that the market will be cut down to the point where the public will not have adequate limousine services if more applications are granted. Operators will start cutting maintenance, leading to unsafe vehicles. If the situation becomes serious, the public won't have any limousine services. He purchased the vehicle shown in Exhibit 3 to provide a service that wasn't otherwise available. He started business in 1994 with a four to five passenger Cadillac. He would not be opposed to competing with the applicant in terms of whatever Classic Limousine business there might be. There is no reason to believe that the applicant would be any more successful at obtaining classic business than he would.

Todd Kober testified: He endorses the testimony of Mr. O'Rourke and Mr. Trease. He is concerned about the safety part of the fiberglass car. He operates three vehicles and there are occasions when he is unable to respond to requests for service. He has not considered adding additional vehicles. He started business in 1993 with one vehicle. He does not have a classic vehicle in his fleet. He believes the existing service is adequate. He has filed for additional authority in the area requested by applicant in B-1436.

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Neb. Rev. Stat. 75-311 (Reissue 1996) provides:

(1) A certificate shall be issued to any qualified applicant authorizing the whole or 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. \*\*\*

Evidence shows that the applicant has a net worth of approximately \$460,000.00. It owns a car which is unusual in the Nebraska limousine service. Applicant has gained some experience with the use of the car offering a limited amount of free service. Protestants offered no evidence to refute applicant's contention that it is fit, willing and able to perform the service.

Testimony shows that there is a demand for the service offered by the applicant in the territory requested, except that no evidence was adduced that any demand for applicant's service exists in Hall County. The evidence clearly showed that the service of applicant was required only in so far as it was performed in the applicant's vintage automobile shown in Exhibits 1 and 2. The application should be granted with the provision that applicant be limited to operating its services in classic reproduction limousines.

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 services proposed and to conform with the statutes and the rules of the Commission thereunder.

2. Public Convenience and Necessity requires the services of the applicant as follows:

SERVICE AND TERRITORY AUTHORIZED:

Transportation of passengers and their baggage by reproduction classic limousine between points in Adams and Buffalo counties and between points within said counties, on the one hand, and, on the other hand, points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad crews and their baggage is not authorized.

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3. The application should be granted.

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application B-1428 be, and it is hereby, granted; 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 Second Chance Classics, Gibbon, in Application B-1428, 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), (Reissue 1996), 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 11th day of June, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Forrest D. Hansen*  
*Ann C. Boyle*

//s//Rod Johnson  
//s//Frank E. Landis

Chairman

*Forrest D. Hansen*

ATTEST:

Executive Director

*Robert R. Loggins*

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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