

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. B-1439
Transport Plus, Inc., Lincoln,)
Nebraska, seeking authority as a common)
carrier in Nebraska intrastate commerce)
in the transportation of (a) retired)
and semi-retired persons 60 years old) GRANTED AS MODIFIED
and older, children 16 years old and)
and younger, and the visually impaired,)
between points in Lancaster County over)
irregular routes, (b) passengers and)
their baggage from points in Nebraska) ENTERED: SEPTEMBER 3, 1997
over irregular routes. RESTRICTION: The)
transportation of railroad train crews)
and their baggage is not authorized.)

APPEARANCES: For the Applicant:
Sanford J. Pollack, Esq.
650 J Street, #400
Lincoln, Nebraska 68508

For Protestants:
Ambassador Limousine Service
dba Haymarket Limousine Service
Leisure Time Limousine Service
Teens N'Tots On Tires, Inc.

Yellow Cab & Limo, Inc. of Beatrice
Jack. L. Shultz, Esq.
P.O. Box 82028
Lincoln, Nebraska 68501

For Protestant Husker Cabs, Inc:
Mark Breiner, Esq.
1145 N. 48th Street
Lincoln, Nebraska 68504

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed May 12, 1997, Transport Plus, Inc., of Lincoln, Nebraska, seeks authority as a common carrier in Nebraska intrastate commerce as follows:

Transportation of (a) retired and semi-retired persons 60 years old and older, children 16 years old and younger and the visually impaired between points in Lancaster County over irregular routes (b) passengers and their baggage from points in Lancaster County, 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.

APPLICATION NO. B-1439

PAGE TWO

Notice of the application was published in the Omaha Daily Record on May 13, 1997, pursuant to the rules of the Commission. Protests to the application were filed on: May 20, 1997, by Ambassador Limousine Service dba Haymarket Limousine Service; Leisure Time Limousine Service; Teens N'Tots on Tires, Inc: (TNNT); May 21, 1997, by Plattsmouth Cab Company; June 4, 1997, by Husker Cab; June 6, 1997, by Yellow Cab and Limo, Inc. A hearing on the application was held on August 6, 1997, in the Commission Hearing Room with appearances as shown.

Prior to the taking of evidence, applicant amended its application to restrict the authority against "leisure limousine service." With the acceptance of the amendment, Ambassador Limousine Service and Leisure Time Limousine Service withdrew their protests.

Applicant produced 16 witnesses in support of its application.

Vicki Harding testified: She is president of applicant corporation. Prior to the incorporation, she operated a service in which she charged passengers for transportation as well as her time. She did not know there was anything illegal about it. She looked into the possibility of purchasing Teens N'Tots on Tires and realized that she need authority. From then on, she did not charge for transportation. She has been a school bus driver for approximately seven years. She has been self-employed since May of 1997. She is willing to spend 70 or 80 hours a week for applicant. She plans to make an initial investment of \$3,000 cash and approximately \$2,200 in office equipment. She would be able to make additional capital contributions. Purchase of a 15-passenger van, 1996 Ford, has been preapproved. The purchase price will be approximately \$18,500. Her husband, Ron, and her daughter may also drive for the applicant. She and her husband also have a 1996 Plymouth Neon four-door sedan that they would also use in the business. She has obtained quotations on the cost of liability insurance. When she transports elderly passengers to doctor appointments, she will stay with the passenger until the appointment is over, get prescriptions filled if necessary, and then take the passenger home or grocery shopping. She also intends to give extra assistance to visually impaired passengers. Exhibit 2 shows a flyer that she has devised for advertising the business. The brochure will be changed to reflect the actual authority granted. She will be able to determine the age of passengers through identification cards, but she may drop the requirement that they be retired or semi-retired in order to make the process more simple. The criteria for visually impaired would be whether the passenger could see well enough to drive himself or herself. There would be no restriction on the age or health of the passengers who want to use the transportation under Part (b). She foresees herself doing 90% to 95% of the driving.

Gregory S. Nielsen testified: Exhibit 5 is a pro forma balance sheet he computed for applicant.

Dr. Rico Kotrous testified: He is a pastor at New Life Church and the director of New Life Christian Counsels. If applicant is granted authority to transport groups of people, his and other churches would benefit. Ms. Harding is a very compassionate person, ideal for this kind of situation. His organization would use applicant to transport children to camps and for other trips out of Lancaster County. The camps he recommends are located at Long Pine, North Platte and Omaha.

Diane Fall testified: She operates a child care center licensed for 12 children. She has used Ms. Harding to transport children from her day-care back and forth to school. She has tried using the cab company but that did not work out. She would like to employ applicant during November, December, January, February and March. If she takes younger children into her center, she would want service the entire school year. She tried to use Teens N'Tots on Tires but because of the way her inquiry was handled, she did not feel confident about entering into a contract with that carrier. She used the cab company twice and the children told her they would not ride in the cab again.

Judy Wittwer testified: She would want to hire applicant approximately four times per month.

Jean Krull testified: She arranges transportation for the law firm where she works. She wants to use applicant to transport elderly clients. Some of her clients live outside of Lancaster County. Cab service was not satisfactory for her needs.

Elizabeth Sposato testified: She would hire applicant nine or 10 times a week at the most to transport her son to school and return him home a mile outside of Lincoln. The school is located at 37th & Sheridan Streets in Lincoln. If the application were not granted, she and her husband would have to perform the service themselves.

Greg Howard testified: He operates the College of Hair Design which would have occasion to hire applicant to transport students on field trips to Omaha two to four times a year, four or five times at the most.

Jeff Altman, a visually impaired person, testified: He is the Lincoln district supervisor for rehabilitation services for the visually impaired. His agency would use applicant's services to transport part-time students which attend the orientation center. Another possibility is that the agency would use applicant to transport its clients to employment interviews. His agency would expect to use applicant one or two times per month. Cab service can be 40 minutes to an hour late. His agency rarely uses handicab services.

Taxi service, as it is presently constituted and conducted, is a primary source of public transportation. Of necessity, an efficient taxi service requires cab drivers to move promptly from one call to another. It simply is not in the public's interest for taxi drivers to remove their cabs from service while they attend the type of special needs the applicant here seeks to serve. However, the public does have an interest in the availability of transportation which can be modified to accommodate the needs of each individual who requires transportation as an adjunct to personal assistance. The record makes it abundantly clear that applicant seeks to provide a special service which the protestants are unsuited to provide and that there is a significant need for the service applicant wants to render. The impact of applicant's operations on the viability of Husker Cab would appear to be negligible. TNTT caters to school children and apparently has an established clientele which would not be threatened by applicant as long as TNTT performs good service. Public convenience and necessity does indeed require the services proposed by the applicant.

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 to the provisions of Neb. Rev. Stat. (Reissue 1996), Sections 75-301 to 75-322, and the requirements, rules and regulations 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: (a) retired and semi-retired persons 60 years old and older requiring specialized personal assistance, children 16 years and younger requiring specialized personal assistance, and visually impaired persons requiring specialized personal assistance between points in Lancaster County over irregular routes; (b) passengers requiring specialized personal assistance and their baggage from points in Lancaster County, on the one hand, and, on the other hand, points in Nebraska over irregular routes; (c) members of church and youth groups from points in Lancaster County, on the one hand, and, on the other hand, points in Nebraska over irregular routes. RESTRICTIONS: The transportation of railroad train crews and their baggage and leisure limousine service are not authorized.

3. The application should be granted as modified.

APPLICATION NO. B-1439

PAGE SEVEN

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application B-1439 be, and it is hereby, granted as modified; 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 Transport Plus, Inc., Lincoln, Nebraska, in Application B-1439, 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. 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.

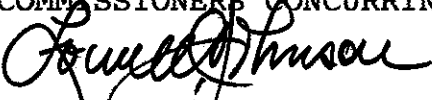

IT IS FURTHER ORDERED that applicant shall render reasonably continuous and adequate service to the public pursuant to the authority authorized.

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.

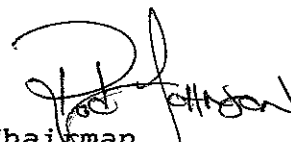
MADE AND ENTERED at Lincoln, Nebraska, this 3rd day of September, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

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


Chairman

ATTEST:


Executive Director

