

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Appli-)	Application No. B-1439
cation of Transport Plus,)	Supplement No. 2
Inc., Lincoln, seeking to)	
amend the authority by)	MOTION FOR
removing the restriction in)	RECONSIDERATION
Certificate B-1439, Supp. 1,)	DENIED
RESTRICTION: (3) Which reads)	
as follows: (3) restricted to)	
a maximum fleet of four)	
vehicles with said fleet)	
restricted to four van-type)	Entered: January 4, 2000
vehicles or three vans and)	
one compact sedan and said)	
sedan restricted to use in)	
the StarTran Brokerage Pro-)	
gram. Applicant requests the)	
following restriction:)	
Restricted to a maximum fleet)	
of six vehicles.)	

BY THE COMMISSION:

By application filed June 14, 1999, Transport Plus Inc., ("Applicant" or "certificate holder") Lincoln, Nebraska, sought to amend its authority by removing the restriction in Certificate B-1439, Supplement 1 and replacing that restriction with another. The restriction which the Applicant seeks to remove restricts the certificate holder to a maximum fleet of four vehicles and for the certificate holder's fleet to include either four van-type vehicles or three vans with one compact sedan, which sedan would be restricted to use in the StarTran brokerage program. The Applicant requested that the new restriction read: Restricted to a maximum fleet of six vehicles.

Two protests against the application were filed, one by Husker Cab and the other by R&F Hobbies, Inc., d/b/a Prince of the Road. A hearing was held on September 16, 1999. On October 14, 1999, the Commission entered an order denying the application. On October 25, 1999, the Applicant filed a Motion for Rehearing. Oral arguments on the motion were held on November 15, 1999 in the Commission Hearing Room, Lincoln, Nebraska. Interested parties were notified of the hearing by first class mail on November 3, 1999.

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F I N D I N G S A N D O P I N I O N

Being fully informed in the premises, the Commission finds that the motion by Transport Plus that the Commission reconsider its decision to deny the original application be denied.

In our order denying the original application, we found the Applicant had failed to demonstrate adequate need and necessity as required by Neb. Rev. Stat. §75-311. In our September, 1999 hearing, we heard considerable evidence that a grant of the application would blur the distinction between the service offered by Protestant Husker Cab and by the Applicant. In making our findings, we relied on a Nebraska Supreme Court ruling that, in determining whether the requirement of finding that there existed public convenience and necessity had been met, the Commission must consider whether the proposed service could be served by the Applicant without endangering and impairing the operations of existing carriers. *In re Application of Nebraska Transport Co.*, 210 Neb 269, 313 N.W.2d 686. In the hearing on the application credible evidence was entered that Protestant Husker Cab could experience a considerable decline in the services offered.

We heard no argument in the oral testimony on this motion that would cause us to reconsider our original decision in this Application. We find our original decision to deny the Application should be affirmed and the motion for reconsideration should be denied.

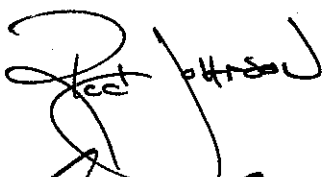

O R D E R


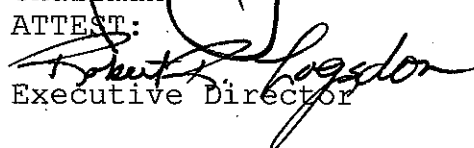
IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the motion of the Applicant in Application B-1439, Supplement No. 2, for reconsideration of the order entered October 14, 1999 should be, and it is hereby, denied.

MADE AND ENTERED in Lincoln, Nebraska on this 4th day of January, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:


Chairman
ATTEST:

Executive Director

//s//Lowell C. Johnson
//s//Frank E. Landis
//s//Daniel G. Urwiller