

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. B-1461
Geneva Motors, Inc., Geneva, Nebraska,)
seeking authority as a common carrier in)
Nebraska intrastate commerce in the)
transportation of passengers and their)
baggage by limousine between points in)
Fillmore, Thayer, Clay, Saline, York and) GRANTED IN PART
Nuckolls counties, and between points)
within said counties, on the one hand,)
and, on the other, points in Nebraska)
over irregular routes. Restriction: The)
transportation of railroad train crews)
and their baggage is not authorized.) ENTERED: April 27, 1998

APPEARANCES: For the Applicant:
None

For the Protestants
Yellow Cab and Limo, Inc.
Gary Thompson, Esq.
Court Street Plaza
P.O. Box 367
Beatrice, NE

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed January 20, 1998, Geneva Motors, Inc., of Geneva, Nebraska seeks authority to transport passengers and their baggage by limousine between points in Fillmore, Thayer, Clay, Saline, York and Nuckolls 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 January 21, 1998, pursuant to the rules of the Commission. Protests to the application were filed by Yellow Cab and Limo, Inc. of Beatrice, Nebraska.

Hearing on the application was held March 19, 1998, at Geneva with appearances as shown.

Applicant produced five witnesses.

Michael Taylor testified: He is the president of Geneva Motors, Inc. He obtained a limousine because people in the area were calling and requesting limousine service. He has had requests for limousine service for a variety of purposes such as weddings, proms, birthdays and special parties. In his opinion, the service will provide a benefit for the area and for his customers. He has had calls for limousine service from residents of Hebron, Carlton, Bruning, Shickley, Deshler, Clay Center, Geneva, Fairmont, Exeter and Sutton. Most of these callers have bought cars from Geneva Motors. He stated the limousine, a 1986 Lincoln Towncar, was purchased at the Kansas City auto auction and is properly insured. The limousine will carry five passengers. The rate charged will be \$50 an hour, with a minimum purchase of two hours.

Rich Mueller testified: He is the mayor of Geneva and believes this application should be granted. As a small community, Geneva would benefit by having limousine service available locally, as opposed to obtaining service from a company based in Beatrice or Lincoln.

Larry Cerny testified: He is a businessman in Geneva. In his opinion, having limousine service from a business based in Geneva would be advantageous for the community. Limousines are presently dispatched from Beatrice and Hastings, over one hour away. Limousine service would be useful for proms and weddings.

Dick Nichols testified: He is semi-retired and works with his son at his body shop in Geneva. His children rented a limousine for their wedding in Colorado Springs, Colorado and really enjoyed themselves. He believes that residents in this area would also enjoy being able to rent a limousine for special occasions. He believes this service will be a great asset for Geneva.

Jack Taylor testified: Jack Taylor works at Geneva Motors and is Michael Taylor's father. Geneva Motors has received requests for limousine service for shivarees, weddings and proms.

Protestant Yellow Cab and Limo, Inc. produced one witness, Ronald D. Hippen, who testified: He operates Yellow Cab and Limo. Inc. in Beatrice. The authority under which he operates includes some counties for which the applicant has applied, specifically, Saline, York, Fillmore and Thayer counties. He operates two 1988 Lincoln limousines and is looking to purchase a third because business is increasing. His rate is \$110, minimum, for two hours of service. Each hour after that is \$45. He advertises in the Lincoln, Polk and Beatrice Aliant telephone directories, but does not advertise in the Aliant telephone directory covering the Geneva and York areas. He has provided limousine service in every county where authorized. If providing service in the Geneva and York area, he is lenient in charging the amount of time it takes to drive to the customer. He gives customers the benefit of the doubt and routinely provides them with one and a half hours of service despite the fact that it takes over one hour to drive just one way. Yellow Cab and Limo is open from 7:00 a.m. to 10:00 p.m. Monday through Friday. On weekends, the company is open from 8:00 a.m. to 5:00 p.m. He has been unable to provide limousine service at some times due to scheduling conflicts.

Section 75-311 (1996 R.R.S.) 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. ***

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Although applicant failed to adduce any evidence of financial fitness, the Commission will take notice of the financial statements filed with the application which demonstrate financial capacity to operate a limousine. Although the record does not show that Geneva Motors has any experience operating a limousine service, the record does not indicate any reason why it could not manage such an operation. From the files, 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. Testimony was entered into the record that would indicate there is a demand and desire in the area surrounding Fillmore County for the type of service applicant proposes to offer. No evidence was adduced as to the need or inadequacy of service in Thayer or Saline counties which are currently served by the protestant.

The protestant testified to having done business in Fillmore County. However, testimony showed that customers in the area are paying for two hours of service and yet, are afforded at most, one and a half hours of time in the limousine due to the time it takes to drive from Beatrice to the area. By granting the applicant authority to operate in Fillmore and York county, residents would be able to pay a comparable price and receive better service than the protestant can provide due to the distance that is involved in driving to customers.

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 York and Fillmore counties. The applicant is also authorized to provide limousine service between points in Clay and Nuckolls counties which were not contested by the protestant.

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 Fillmore, York, Clay and Nuckolls counties over irregular routes. Restriction: Transportation of railroad train crews and their baggage is not authorized.

3. The application should be granted in part.

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O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1461 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 Geneva Motors, Inc., Geneva, Nebraska in Application B-1461, 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.

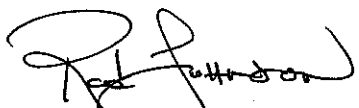

IT IS FURTHER ORDERED that applicant shall render reasonably continuous and adequate service to the public pursuant to the authority authorized.

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 27th day of April, 1998.

NEBRASKA PUBLIC SERVICE COMMISSION

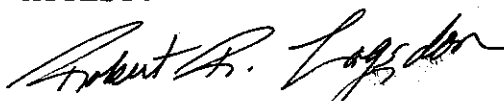
COMMISSIONERS CONCURRING:

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


Chairman

ATTEST:


Executive Director