

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. B-1472
Visinet, Inc. of Omaha, seeking)
authority as a contract carrier in)
Nebraska intrastate commerce for)
Nebraska Department of Health and)
Human Services, FHC Options, Inc.)
and Partners Network in the trans-) GRANTED AS AMENDED
portation of passenger and their)
baggage between points in Nebraska)
over irregular routes under contin-)
uing contracts with Nebraska Depart-)
ment of Health and Human Services,)
FHC Options, Inc. and Partners)
Network.) Entered: October 7, 1998

APPEARANCES: For the Applicant:

Soren Jensen
10330 Regency Parkway Drive
Omaha, NE 68114

For the Staff:

Chris Post
300 The Atrium, 1200 N Street
Lincoln, NE 68508

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed May 14, 1998, Visinet, Inc. (Visinet or applicant), of Omaha, Nebraska, seeks authority as a contract carrier in Nebraska intrastate commerce as follows:

Transportation of passengers and their baggage between points in Nebraska over irregular routes under continuing contracts with the Department of Health and Human services, FHC Options, Inc. and Partners Network.

Notice of the application was published in the Omaha Daily Record on May 15, 1998, pursuant to the rules of the Commission. Protests to the application were filed on: June 2, 1998 by Yellow Cab and Lime, Inc.; June 4, 1998 by Happy Cab of Omaha; June 9, 1998 by B.J.Z., Inc. and Checker Cab Company; June 11, 1998 by Husker Cabs, Inc. and Prince of the Road; and on June 15, 1998 by Shared Mobility Coach, Inc.. A hearing on the application was held on September 8, 1998, in the Commission library with appearances as shown.

Prior to the taking of evidence, applicant amended its application to seek authority to operate as a contract carrier in Nebraska interstate commerce as follows:

Transportation of behaviorally challenged children who are under psychological care, physical care, or both or who are diagnosed with mental illness and are of the age of no more than eighteen (18) years between points in Nebraska over irregular routes under continuing contracts with the Nebraska Department of Health and Human Services, FHC Options, Inc. and Partners Network.

RESTRICTION: Transportation is restricted to the extent that the escort-drivers who provide transportation services are certified as Family Support Workers after required training by the Nebraska Department of Health and Human Services. Transportation services provided are restricted against the use of special equipment.

E V I D E N C E

Applicant's application was received into evidence as Exhibit 1. Applicant's Interrogatories to R & F Hobbies, Inc. were received into evidence as Exhibit 2. Applicant's amendment to its application was received into evidence as Exhibit 3. Applicant's Interrogatories and the Answers from Ronald Hippen were received into evidence as Exhibit 4. Applicant's restrictive amendment was received into evidence as Exhibit 5.

Applicant produced three witnesses in support of its application.

John Powers testified: He is the executive director and co-owner of the applicant, Visinet. He and his partner, Mike Wehling, provide five types of social services. These services include supervised visitation, family support work, service crisis intervention, community treatment, and escort services. Their patients are usually behaviorally challenged children under the age of 12. All employees of the company receive the same 35 hours of pre-service training, in addition, they receive 12 hours of ongoing education each year, making them certified family support workers. In 1994 they signed a contract with FHC Options in which they became involved in providing escort services to take some of their patients to places where they could receive specialized treatment or care. The family support workers used their own cars for the escorts. The family support workers stayed with the patient the entire trip. The rate for escort service was set at twenty-seven dollars an hour. This escort service was also provided to Partners Network in Omaha. They provided child protection services to the Department of Health and Human Services which involved the transportation of the children or their families. They became aware that they needed to be authorized by the Commission and stopped transporting patients. They currently use taxi cabs for their escort service with the escort riding along in the cab. The application seeks to allow the escorts/family support workers to be the driver of patients. The vehicles will be inspected and insured before transporting patients.

Connie Duncan testified: She is employed by FHC Options as the director of network development and provider relations. She contracts escort services with the applicant. It would be easier if the escort could also provide the transportation service. Under the

current system, she has to authorize both a transportation provider and a escort provider which has increased the cost of the service and has caused difficulties to their patients. Escort transportation is 22 percent of the total transportation budget. There are two other companies that currently provide this type of escort and transportation service, but they are small and regionally located which makes them unable to handle most of the business.

Denise Pecha testified: She is employed with Partners Network. Partners Network is a small behavioral managed care company. Partners Network also seeks transportation and escort services from the applicant.

Two protestants made statements on the record.

Ronald Schroll stated: He is the vice-president and chief operating officer of Prince of the Road. He feels that there is not a need for the service the applicant seeks authority to provide.

Ronald Hippen stated: He agrees with Mr. Schroll that there is not a need for the applicant to provide the service requested. He owns Yellow Cab and Limo in Beatrice, Nebraska and is willing to provide the same service that the applicant seeks to provide.

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

Neb. Rev. Stat., Section 75-311 (Reissue 1996), reads in pertinent part:

A permit shall be issued to any qualified applicant therefor authorizing in whole or in part the operations covered by the application if it appears after notice and hearing from the application or from any hearing held on the application that (a) the applicant is fit, willing, and able properly to perform the service of a contract carrier by motor vehicle and to conform to the provisions of such sections and the lawful requirements, rules, and regulations of the commission under such sections and (b) the proposed operation, to the extent authorized by the permit, will be consistent with the public interest by providing services designed to meet the distinct needs of each individual customer or a specifically designated class of customers as defined in subsection (6) of section 75-302. Otherwise the application shall be denied. ***

Subsection (6) of Section 75-302 provides:

Contract carrier means any motor carrier which transports passengers or household goods for hire other than as a common carrier designed to meet the distinct needs of each individual customer or a specifically designated class of customers without any limitation as to the number of customers it can serve within the class.

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The Commission finds that the applicant has considerable experience in the transportation of behaviorally challenged children. It has the adequate equipment to provide the services proposed and adequate capital to make investments, if needed, to perform the proposed service. Although the Commission takes a dim view of carriers who provide transportation without authority of the Commission, it is apparent here that the applicant, once made aware of the necessity for it to obtain the Commission's authority, applied for the requisite authority forthwith. It does not appear to serve any statutory standard nor the public interest to deny this application on the grounds that the applicant commenced operation before it obtained proper authority from this Commission.

The evidence shows that applicant is indeed well qualified to provide transportation that serves the distinct needs of its supporting clients.

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 and that there is a significant need for the service applicant wants to render.

The impact of applicant's operations on the viability of other transportation and cab companies would appear to be negligible. 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 of a contract carrier by motor vehicle 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:

PERMIT AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Transportation of behaviorally challenged children who are under psychological care, physical care, or both or who are diagnosed with mental illness and are of the age of no more than eighteen (18) years between points in Nebraska over irregular routes under continuing contracts with the Department

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of Health and Human Services, FHC Options, Inc., and Partners Network. RESTRICTION: Transportation is restricted to the extent that the escort-drivers who provide transportation services are certified as Family Support Workers after required training by the Nebraska Department of Health and Human Services. Transportation services provided are restricted against the use of special equipment.

3. The application should be granted as amended.

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application B-1472 be, and it is hereby, granted as amended above and that a Permit shall be issued to Visinet, Inc., Omaha, Nebraska, authorizing the services of a contract carrier by motor vehicle as set forth above.

IT IS FURTHER ORDERED that applicant shall not be issued the Permit authorized by the Commission unless and until applicant has fully complied, within a reasonable time from the effective date of this Order, with Neb. Rev. Stat., 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 Permit 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 Permit 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 7th day of October, 1998.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Anne C. Boyle

//s//Lowell C. Johnson

//s//Frank E. Landis

//s//Daniel G. Urwiller

Lowell C. Johnson
Chairman

ATTEST:

Robert B. Logsdon
Executive Director

