

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. B-1477
Husker Limousine Service, Howells,)
seeking authority as a common)
carrier in Nebraska intrastate)
commerce in the transportation of)
passengers and their baggage by) GRANTED AS MODIFIED
limousine between points in Dodge,)
Platte, Colfax, Washington, Douglas,)
Sarpy, Lancaster, York, Seward,)
Cuming, Burt and Madison counties)
and between points within said)
county on the one hand, and points)
in Nebraska over irregular routes.) ENTERED: OCTOBER 26, 1998

APPEARANCES: For the Staff:
John Doyle
300 The Atrium, 1200 N Street
Lincoln, NE 68508

BY THE COMMISSION:

By application filed June 15, 1998, Husker Limousine Services, Howells, seeks authority as a common carrier in Nebraska intrastate commerce, in the transportation of passengers and their baggage by limousine between points in Dodge and York counties, and between points within said counties, on the one hand, and points in Nebraska over irregular routes. Notice of the application was published in the Omaha Daily Record on June 17, 1998, pursuant to the rules of the Commission. Protests to the application were filed on: June 18, 1998, by Armadillo Express; July 6, 1998, by Executive Limousine Service; July 13, 1998, by Special Moments Limousine. On July 2, 1998, the applicant filed a restrictive amendment, restricting the applicant from the transporting of railroad train crews and their baggage. Armadillo Express then withdrew their protest to the application. A hearing on the application was held on September 3, 1998, at the City Council Chambers in Fremont, Nebraska, with appearances as shown.

E V I D E N C E

The Commission, on its own motion, offered and received into evidence the applicant's application as Exhibit 1, and a citation the applicant received as a result of not being certificated as Exhibit 2. A copy of the applicant's advertisement was received into evidence as Exhibit 3.

The Applicant, John Nisula, made a statement as follows: He is the owner of Husker Limousine Service. He owns two rental homes and has saved money in a 401K plan to use in his limousine business. He has already had numerous calls requesting limousine service. He currently owns three limousines. He plans to station the three

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limousines in York, Dodge, and Iowa. He would drive the Limousine in Iowa, his mother would drive the limousine in Dodge, and his grandmother would drive the limousine in York. He has driven for Park Avenue Limousine and his mother and grandmother have driven his limousines. His rates will be \$70 per hour plus 50 cents per mile for deadhead miles. He has liability insurance totaling \$1.5 million dollars. He will hire a maintenance man to service the limousines. He will advertise on the radio and in the newspaper. He will hire an attorney to help him follow the Nebraska statutes and Commission rules governing this type of common carrier transportation service.

Protestant, Dwaine Trease, made a statement as follows: He and his wife operate Special Moments Limousines out of Clearwater and Grand Island, Nebraska. He has four limousines, two of which are usually in Clearwater and the other two are usually in Grand Island. In the rural community, too many limousine companies will affect the quality of service that can be provided. The cuts in revenue will affect the condition of the limousines and the safety of the public. He offered advertisements his company has run in the Yellow Pages of various surrounding phone books. The advertisements were received into evidence as Exhibit 4. He offered a brochure and a business card outlining their rates, which were received into evidence as Exhibit 5. He offered a map outlining the counties in which the applicant is seeking authority, which was received as Exhibit 6. He offered a copy of the Commission's Order in Application B-1393, which was received into evidence as Exhibit 7. He further stated that approximately 16% of his total business is transporting passengers to the casinos.

Protestant, Marty Adle, made a statement as follows: She is the owner of Executive Limousine Service. She has been in business for over five years and has two limousines. She advertises in the Yellow Pages, on the radio, and on TV. Seventy-five percent of her business is done with private runs while only 25% is casino runs. The limousine business is slow right now. She charges \$85 per hour and 75 cents per mile for dead miles. She thinks that there are already too many limousines in the area.

Commissioner Lowell Johnson asked the applicant to submit a record of the calls he has received requesting limousine services. The record of calls was received into evidence as Late Filed Exhibit 8.

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 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

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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 of 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. ***

The evidence shows that the applicant has investigated and fulfilled the equipment and insurance requirements incumbent upon it to perform the service proposed. The applicant is also financially and managerially capable of performing the proposed service. Therefore, the evidence shows that applicant is fit, willing and able to properly perform the service proposed and to conform with the statutes and the rules of the Commission.

Although Husker Limousine was cited by this Commission for operating without intrastate operating authority, this fact, in and of itself, does not make the applicant unfit to perform the service for which it applied. It is apparent here that the applicant, once made aware of the necessity for it to obtain Commission 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.

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 to properly perform the service of a common 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:

CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Transportation of passengers by limousine between points in Dodge and York counties, and from points originating in Dodge and York counties, to points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized.

3. The application should be granted as modified.

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O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application B-1477 be, and it is hereby, granted as modified above and that a certificate shall be issued to Husker Limousine Service of Howells, Nebraska, authorizing the services of a common carrier by motor vehicle as set forth above.

IT IS FURTHER ORDERED that applicant shall not be issued the certificate 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 Certificate is issued.

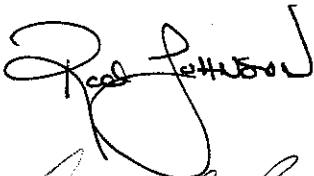
IT IS FURTHER ORDERED that applicant shall render reasonably continuous and adequate service to the public pursuant to the authority authorized.

IT IS FURTHER ORDERED that the Certificate 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 26th day of October, 1998.


NEBRASKA PUBLIC SERVICE COMMISSION


COMMISSIONERS CONCURRING:




Chairman

ATTEST:


//s//Lowell C. Johnson
//s//Daniel G. Urwiller


Executive Director