

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Appli-)	Application No. B-1494
cation of Midlands Services)	
Link, Inc., Omaha, Nebraska,)	
seeking authority as a common)	
carrier in Nebraska intra-)	GRANTED
state commerce in the)	AS MODIFIED
transportation of passengers)	
by van and wheelchair -)	
accessible vans between)	
points in Douglas, Sarpy,)	
Washington, and Cass counties)	Entered: July 27, 1999
over irregular routes.)	
RESTRICTION: The transporta-)	
tion of railroad train crews)	
and their baggage is not)	
authorized.)	

BY THE COMMISSION:

By application filed January 27, 1999, Midland Services Link, Inc., of Omaha, Nebraska seeks authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers by van and wheelchair-accessible vans between points in Douglas, Sarpy, Washington, and Cass counties over irregular routes. Notice of the application was published in The Daily Record, Omaha, Nebraska, pursuant to Commission rules and regulations.

On February 2, 1999, R&F Hobbies, Inc., d/b/a Prince of the Road ("Prince of the Road") filed a protest to the application. On March 3, 1999, a petition was filed by Shared Mobility Coach, Inc. ("SMC") for intervention. A hearing was held June 3, 1999 concurrently via video-conferencing at the State Office Building, 1313 Farnam-on-the-Mall, Omaha, Nebraska, and the Nebraska Public Service Commission Library, 300 The Atrium, 1200 N Street, Lincoln, Nebraska. Appearing for the Applicant was Opeolu Banwo, Omaha, Nebraska. Appearing for the Protestant Prince of the Road was John Boehm, Lincoln, Nebraska.

Alasa Hassan Braimah testified for the Applicant. Mr. Braimah is the president of Midlands Services Link, Inc. He detailed his educational and social services training background. In his current capacity, he arranges transportation for the

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mentally ill. He brought a petition containing signatures in support of the application. He testified to a problem of accessibility to transportation services.

He testified that he had not used the services of the Protestant Prince of the Road. Prince has no presence in the Omaha either through the maintenance of offices in the metropolitan Omaha area or through a listing in the phone directory. He further testified to problems of arranging for the transportation needs of the clients that he serves. Because there is no immediate transportation available and because of the need to obtain approval for transportation from the Nebraska Department of Health and Human Services, some transportation needs, such as for medical appointments, recreational needs, and shopping, remain unmet. He also testified that transportation requests were not completed to some areas of the city.

Testimony was provided by Violo Iluebbey, an employee of the Visiting Nurses' Association, in support of the application.

Kathy Stokes, an ENCOR program manager, also testified in support of the application. Ms. Stokes, among other job responsibilities, arranges transportation for her clients. She expressed her frustrations over obtaining transportation. She stated that transportation has to be arranged with 24-48 hours advanced notice. Transportation requests can be denied, she said, if the company is booked up. In order to arrange for transportation, she consults the yellow pages of the telephone directory. When she arranges transportation she uses SMC and has not used Prince of the Road. ENCOR does not provide any transportation for her clients for recreational or social events, although they will provide transportation to and from the industrial training center.

Alvin Schroll, president of Protestant Prince of the Road, testified in opposition to the application. He testified that Prince of the Road currently operates seven vehicles near the four-county area covered by the application. He testified that his company has never turned down any requests for transportation although a 24-hour notice is sometimes required. He further testified that he has contracts with the Nebraska Department of Health and Human Service and FHC Options, Inc. to transport clients of the department who are physically and/or mentally

disabled. He also testified that he was working with "Omaha on the Move" an ad hoc group looking into transportation problems.

Under cross-examination, Mr. Schroll indicated that not all of his available vehicles were ADA-compliant and that, in fact, only two or three vehicles were ADA-compliant. One of these, it appeared from the offered testimony, was dedicated for use in another community. Mr. Scroll also indicated that, while persons with a disability who were clients of HAS could know and could access his services, persons with a disability who were not clients of HHS could not know of the availability of his transportation services solely through a search of the local phone directory. He also acknowledged that his company did not maintain a physical presence of an office in Omaha.

The Commission counsel requested, and was granted, of the Commission that an examination of the Protestant's records be undertaken to determine if there was a higher degree of "no-shows" for those areas of Omaha complained of by the applicant and to determine, if possible, the number of requests that required a 24-hour notice.

Under cross-examination by counsel for applicant, Prince of the Road testified that their offices are about 150 miles from Omaha although they do have a central dispatch office. In addition, they have a toll-free 888 number.

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

Protestant has stated that he is willing to meet the transportation needs of the mentally and physically disabled and that he has not turned away any business. However, Protestant can only cover those disabled who are also clients of the Department of Health and Human Services and/or FHC Options. The Protestant has no offices or telephone directory presence within at least part of the area sought to be served by the Applicant. The result is that there may exist a disabled population, namely those who are not clients of HAS or F.C. Options, which cannot be adequately served by the Protestant.

The need for a 24-hour notice, no matter how infrequently invoked, precludes the Protestant from meeting certain transportation needs of the intended population to be served (notably social and recreational functions).

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The Commission is further concerned that the limited number of ADA-approved vehicles leased by the Protestant is sufficient to meet all of the needs of this population. While we decline to make a specific finding on this particular issue, the Commission is mindful of the intentions of the federal ADA act and beleives that it should endeavor to do what it must to maximize opportunities for the disabled and to effectuate the purposes of the federal act.

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 proposed in the Application and to conform to the provisions of Neb. Rev. Stat. section 75-301 to 75-322 (Reissue 1996), 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 to the following extent, and subject to the following restrictions:

CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Intrastate transportation of passengers by passenger van and vans specially modified according to the Americans with Disabilities Act between points in Douglas, Sarpy, Washington, and Cass counties over irregular routes.

RESTRICTIONS: The transportation of railroad train crews and their baggage are not authorized.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1494 be, and it is hereby, granted as modified; and that upon compliance with the terms and conditions as set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Midlands Services Link, Inc.,

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Omaha, Nebraska, authorizing the operations as set forth in the foregoing findings.

IT IS FURTHER ORDERED that the Applicant shall not be issued the Certificate of Public Convenience and Necessity authorized by the Commission unless, and until, the 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) 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 the Applicant, be of no further force and effect.

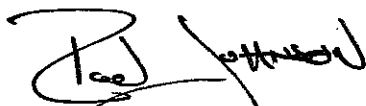
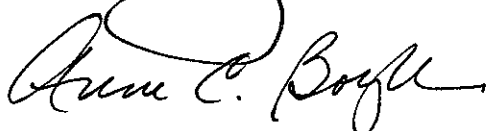
IT IS FURTHER ORDERED that Applicant shall not conduct operations until a Certificate of Public Convenience and Necessity is issued.

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, limitations and restrictions which have been, or may hereafter be, prescribed by the Commission.


MADE AND ENTERED in Lincoln, Nebraska, on this 27th day of July, 1999.

COMMISSIONERS CONCURRING:

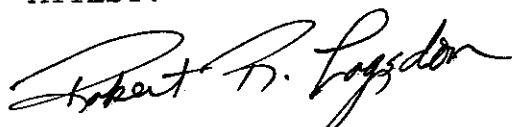



//s//Lowell C. Johnson
//s//Daniel G. Urwiller

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director

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