

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) Application No. B-1498
of Running Horse Enterprises, LLC,)
Hastings, Nebraska, seeking auth-)
ority as a common carrier in)
Nebraska intrastate commerce in the)
transportation of passengers by)
limousine service between points in) GRANTED AS MODIFIED
and within a 200-mile radius of)
Hastings over irregular routes.)
RESTRICTIONS: The transportation) Entered: May 18, 1999
of train crews and their baggage)
is not authorized. Transportation)
of passengers originating in)
Buffalo County, Nebraska, is not)
authorized.)

BY THE COMMISSION:

By application filed with the Commission on February 10, 1999, Running Horse Enterprises, LLC ("Running Horse" or "Applicant") of Hastings, Nebraska, seeks authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers by limousine services between points in and within a 200-mile radius of Hastings, Nebraska, over irregular routes. Notice of the application was published in The Daily Record, Omaha, Nebraska on February 11, 1999 pursuant to Commission rules. Protests to the application were timely filed by O'Rourke & O'Rourke Buggy Rentals, Inc. ("O'Rourke & O'Rourke") and by Special Moments Limousine, Inc. ("Special Moments") (collectively, "Protestants").

On April 21, 1999, a hearing was held in the City Council Chambers, City Hall, Hastings, Nebraska. Appearing for the Applicant was Brad Moncrief, P.O. Box 188, Hastings, Nebraska; Gerry O'Rourke appeared on behalf of O'Rourke & O'Rourke. Mr. Dwaine Trease, owner of Special Moments, filed written comments.

The Applicant produced seven witnesses in support of its application.

Mr. Dee Haussler, executive director of the Hastings Economic Development Corporation, testified that considerable thought and planning had gone into the application. The Applicants have acquired a 100-inch stretch model coach limousine, representing a significant investment for the Applicant. Applicant, unlike the Intervenor, is a member of the

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Hastings Chamber of Commerce. There is no other marketing efforts being undertaken for the specific type of service to be offered by the Applicant. Mr. Haussler further testified that the Applicant has reviewed the Applicant's business plan and that the Applicant, in his opinion, has developed a sound business plan and that the Chamber of Commerce would support. Upon questioning, Mr. Haussler indicated that there is definitely a market for the type of service sought by the Applicant in the south central area of the state - that there are proms, weddings, etc. - which would provide a good market for a limousine service. There is another limousine service advertized in the Yellow Pages, but there have been persons who have been unable to get a response from that provider.

Dwight Splitt testified that he has had a hard time trying to locate and hire a limousine for events such as his daughter's wedding. The cost for limousines from outside of the area becomes prohibitive because of the expense of getting the limousines into town.

Don Reynolds, president of the Hastings Area Chamber of Commerce presented a resolution from the Board of Directors of the Chamber which voted unanimously to support the application. Adding limousine service to the area's transportation base would be beneficial to the community, he testified, because of recent losses to the transportation base and because a limousine service would be beneficial in attracting persons to travel to Hastings.

Kent Gilbert, Applicant, has been a resident of Hastings for thirty years. He came upon the idea of starting a limousine service when he utilized one on the day of his wedding in October 1998. After undertaking a rough survey of the Hastings area looking into the possibility of a market for limousine services, he purchased a limousine early the next year. He testified that he has already worked on maintaining the vehicle and preparing it for use, arranging insurance coverage, preparing advertizing, and making other arrangements. He further testified that, on legal advice, he set up a limited liability company, and that he had financial backing to operate the service two years without profit. He has developed a pool of qualified drivers to enable the business to operate as a full-time business. Mr. Gilbert also testified that the limousine will be used for community services such as Make-a-Wish, the Angel Foundation and as a promotion for other community events.

Mr. Gilbert further testified that the radius range used for the application was a result of investigating different insurance

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plans and discovering that they were issued based on a radius range of proposed activity, and also upon researching prior applications approved by the Commission. The radius used has been applied for so as to give the applicant regional coverage. Planning for long-term growth of the business, the Applicant was confident that he would be able to serve the several counties that would be included in the radius application. The Applicant intends to advertize in the Yellow Pages of several area telephone directories. While the Applicant has not booked any actual job requests, he has received quite a few requests. Applicant has obtained insurance against liability in the amount of \$1,000,000 which is in excess of Commission requirements.

Mark Randone testified on behalf of the application. Mr. Randone testified that he works for Amtrak as a ticket agent. In the course of his duties, he has seen a need for some type of an alternate transportation system. There is no bus service available and at times there is a need for the transportation of two or three individuals when there is, for example, a backup due to re-routing of train traffic. A limousine service, if available, could be used for those type of situations. He also testified that he has used a limousine service in the past and that he felt that a need existed for another limousine service to be available in the Hastings area.

Brent Norseen testified that he felt that there was a need in the community for a limousine service. Mr. Richard Gilbert, older brother of the applicant, also testified that he felt that there was a need for a limousine service, for example, to transport athletic teams as a treat. He further testified that he believed that competition in the limousine market would be beneficial.

Appearing and testifying in opposition to the application was Gerry O'Rourke, who operates a limousine company. He testified that the testimony he heard did not, in his opinion, demonstrate a need for another limousine service. He further testified that he has taken care of all the requests for limousine service which he has received. He also stated that he did not object to another limousine service, if the service operated to the south and east of Adams County.

OPINION AND FINDINGS

From the evidence adduced and being fully informed in the

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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 Necessity to the following extent, and subject to the following restrictions:

CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Transportation of passengers by limousine service between points and within a 200-mile radius of Hastings, Nebraska, over irregular routes.

RESTRICTIONS: (1) The transportation of railroad train crews and their baggage are not authorized; (2) Transportation of passengers originating in Buffalo County, Nebraska is not authorized.

3. The application should be granted as modified.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1498 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 Running Horse Enterprises, LLC, Hastings, 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,

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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.

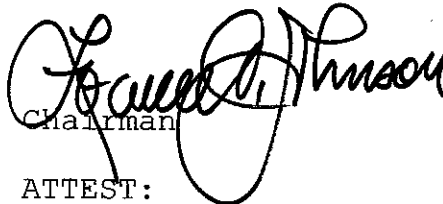
IT IS FURTHER ORDERED that Applicant shall render reasonably continuous and adequate service to the public pursuant to the authority authorized.

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.

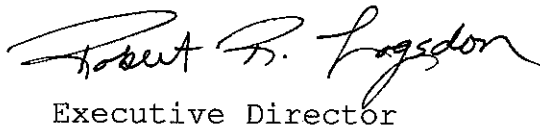
MADE AND ENTERED in Lincoln, Nebraska on this 18th day of May, 1999.

COMMISSIONERS CONCURRING:

NEBRASKA PUBLIC SERVICE COMMISSION


Chairman

ATTEST:


Executive Director

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

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION
