

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

Marlan V. Dooley d/b/a High ) Application No. B-1520  
Plains Cab Service, McCook, )  
Nebraska, seeks authority )  
as a common carrier in )  
Nebraska intrastate commerce )  
in the transportation of )  
passengers by taxicab, in )  
sedans and passenger vans, ) GRANTED AS AMENDED  
between points in Red Willow, )  
Hitchcock, Hayes, Dundy, Chase, )  
Frontier, Furnas and Gosper )  
Counties and between points )  
within said counties on the one )  
hand, and, on the other hand, )  
points in Nebraska over irregular )  
routes. RESTRICTION: The trans- )  
portation of railroad train crews )  
is not authorized. ) Entered: June 29, 2000

BY THE COMMISSION:

By application filed January 19, 2000, Marlan V. Dooley d/b/a High Plains Cab Service ("Applicant" or "High Plains") of McCook, Nebraska, seeks authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers by taxicab, in sedans and passenger vans, between points in Red Willow, Hitchcock, Hayes, Dundy, Chase, Frontier, Furnas and Gosper Counties, between points within said counties on the one hand, and, on the other hand, points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad train crews is not authorized. Notice of the application was published in The Daily Record, Omaha, Nebraska, on January 20, 2000, pursuant to Commissions rules. On February 1, 2000 and February 7, 2000, the applicant filed restrictive amendments requesting the application be amended to seek authority only for taxicab, in sedans, and not passenger vans. A protest to the application was timely filed by Prince of the Road.

On June 8, 2000, a video hearing was held in the Commission Library, Lincoln, Nebraska. The applicant, Marlan V. Dooley appeared pro se. Appearing for the Protestant was John Boehm, Lincoln, Nebraska. Shanicee Knutson appeared as a staff attorney on behalf of the Commission.

## EVIDENCE

Applicant produced nine witnesses in support of its application. These witnesses testified as follows:

Marlan V. Dooley, the proposed owner and operator of High Plains Cab Service, testified that he has worked in the transportation industry for a number of years and has been employed throughout the years, by several transportation companies. He testified that the proposed taxi service will fill the gap for transportation services not currently being provided. He stated that he surveyed the local businesses and discovered that there was a need for the proposed service. He testified that McCook has not had a taxi service available in over seventeen years. He further testified that McCook was a growing community, and that he anticipated a continuing need. Mr. Dooley further testified that he would put one vehicle in service, most likely a late 80's to early 90's, four door sedan. Applicant procured estimates on vehicles and the necessary insurance amounts. Mr. Dooley also stated that he has lined-up a mechanic who would be willing to service and maintain his vehicles. He intends to market the business by using flyers, direct contact with the local citizens and through a telephone directory. He further testified that the car(s) will be equipped and maintained pursuant to Commission rules and regulations.

Mr. Dooley further testified that he would provide service twenty-four hours a day. He would place someone by the phone receiving calls at all times. Mr. Dooley stated that he would focus on providing taxi transportation services for the local residents. However, Mr. Dooley testified as to the need in the entire eight county region for which he was requesting authority. Mr. Dooley stated that he planned to continue to run Haymarket Limousine, a company already possessing common carrier authority, particularly for the distance transportation. He plans on employing seven to eight part time drivers.

Upon cross-examination, Mr. Dooley testified that he signed a contract while working for Armadillo. The contract in question included a waiting charge. In response, Mr. Dooley testified that he was instructed by his supervisor to sign that particular contract. Furthermore, he testified, he had no knowledge of any policy against doing so.

Senator Tom Baker testified that there was a serious need for taxi service in the McCook area. He stated that he supported Mr. Dooley's application because he is a stable citizen in the community and native to the McCook area. He also testified about

the need for the applicant's proposed service in the surrounding counties. He stated he was very familiar with transportation services, and the lack thereof, in the area. He further testified that McCook and Red Willow County were an aging population, and the need for a taxi service would continue to grow. Mr. Baker estimated that the population for McCook was about 8,200 people and there were about 13,000 in Red Willow County.

Vicki Leibbrandt, former Chamber of Commerce director testified as to her personal knowledge of the need for taxi service in the area. She testified that she had extensive knowledge of what transportation services were available and what the need for those services are in the area. She testified that the McCook retail trade area includes approximately thirty-five to forty thousand people. Ms. Leibbrandt testified that the communities surrounding McCook were very small; many of the communities are composed of less than 500 citizens. A number of these towns, she testified, no longer provided the needed medical care, grocery stores and drug stores. Ms. Leibbrandt testified further that in her opinion approving Mr. Dooley's application would enhance economic development and provide local employment for citizens in the area.

Linda Leising, the Assistant Director of the McCook Chamber of Commerce, she testified that the McCook Chamber of Commerce supported the application because there was a need for the applicant's proposed service in the area. She testified that there was a serious need for taxi transportation service in the McCook area. She indicated that the Chamber has received a number of call from citizens requesting taxi services. She further testified that Amtrak has a scheduled arrival at 3:30 a.m., and there was no mode of transportation for the passengers except for a local motel shuttle service.

Tora Stephenson, an employee at the Holiday Inn Express, testified that the motel only has one employee working at a time. She stated that they usually have to call an employee in the middle of the night to pick up passengers from the Airport or train station.

Angela Peterson, the administrative assistant for the Economic Development Corporation, also testified that there was a need for the applicant's proposed taxi service.

Ivan Schmid, the Director of the McCook Main Street Project, testified that he has personal knowledge as to the need for a taxi service as he has had to personally transport visitors on a number of occasions. He further testified that since he is getting older, he will be unable to drive soon, and it will be necessary for him

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to use taxi service as well. He also stated that he has a number of friends who cannot get around very well anymore and would use a taxi service if one were available.

Flora Lundberg, the Mayor of McCook, testified that the town was in dire need of a taxi service. She testified that McCook does have the Handi-bus, however, this service does not operate in the evenings, nor on the weekends. She testified that a number of community residents no longer drive and would benefit from the applicant's proposed service. She further testified that she knows of the applicant's business plan, and of the applicant's commitment in helping area residents.

Barbara Ostrum, the Community Services Coordinator for the Mid-Nebraska Community Action, testified that she coordinates services in a 6,000 square mile area. She testified that she pretty much covers the same territory included in the applicant's request. Ms. Ostrum stated that the office of Social Services is three miles from her office, yet in the winter and mid-summer many people walk that distance if they don't have family or friends to take them. Ms. Ostrum testified that she has clients who have doctors in Furnas and Hitchcock counties. She further testified that outside of McCook, the cost of Armadillo is prohibitive. Most people, she asserted, could not afford to use Armadillo particularly for the shorter trips. She testified that there was a need for taxi service not only in McCook, but for the surrounding counties as well.

Ron Schroll, presented the testimony on behalf of the Protestant. He testified that Prince of the Road had no objections to the proposed taxi service, within the city limits of McCook. Prince of the Road protested the distance travel from within the proposed territory to outside those counties, and from outside those counties to within the proposed territory. Mr. Schroll testified that Prince of the Road primarily provides distance transportation contracted with Health and Human Services. He testified further, that Prince of the Road had a presence in Frontier and Gosper County. He testified that the current operator would not be able to survive with a competitor. He stated that the Roger Hoseck had one vehicle and he was in the process of adding another. He further testified that Haymarket Limousine d/b/a A-1 Ambassador Limousine, Inc. was a presence in the area. Mr. Schroll stated, in his opinion, everyone in the area knows about Prince of the Road. Mr. Schroll stated Prince of the Road has handed out brochures and have marketed in the area. He further testified that because of their driver's training they would only object to the applicant's attempt to transport passengers for a government agency. He asserted that Prince of the Road has never turned down

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a request to transport passengers for a governmental agency.

## O P I N I O N S   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 applicant 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. \*\*\*

The applicant has been in the business of providing transportation for passengers for a number of years. The applicant has demonstrated his financial ability to operate the proposed service in the territory requested. The applicant has further produced sufficient evidence demonstrating applicant's fitness to properly perform the service proposed and conform to the requirements imposed by state law and this Commission. From the testimony and evidence presented, the Commission finds the applicant is fit, willing and able to provide the service proposed in accordance with Neb. Rev. Stat. 75-311 (Reissue 1996).

The applicant also demonstrated that the proposed service is required by the present public convenience and necessity. Several witnesses testified that no taxicab service is available in the McCook area or contiguous counties. The testimony presented also indicated that, despite this need, McCook has been without taxi service in over 17 years. Various witnesses testified that McCook was a growing community with a large retail drawing area. The testimony presented demonstrates that these rural areas need the ability to accommodate persons coming from the local airport and Amtrak station and persons going to medical centers and other important destinations. Several witnesses testified that they had been greatly inconvenienced by the absence of a taxi service and testified that they would use the applicant's proposed service should authority be granted by this Commission.

The testimony presented, evidences that the demand exists not only in the McCook area but for points to and from the eight counties requested in the application. The witnesses testified

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having to personally transport friends and elderly citizens to medical centers, airports and various other destinations from the rural region. According to the evidence adduced at the hearing and filed with this Commission, we find that the applicant has shown need for the proposed taxicab service for the requested territory.

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. Sections 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:

#### AUTHORITY SOUGHT

Transportation of passengers by taxicab, in sedans, and passenger vans between points in Red Willow, Hitchcock, Hayes, Dundy, Chase, Frontier, Furnas and Gosper Counties and between points within said counties on the one hand, and on the other hand, points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad train crews is not authorized.

#### CERTIFICATE AUTHORIZED

#### SERVICE AND TERRITORY AUTHORIZED:

Transportation of passengers by taxicab, in sedans, between points in Red Willow, Hitchcock, Hayes, Dundy, Chase, Frontier, Furnas and Gosper Counties and between points within said counties on the one hand, and on the other hand, points in Nebraska over irregular routes. RESTRICTION: The transportation of railroad train crews is not authorized.

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 No. B-1520 be, and it is hereby, granted as amended above and that a certificate shall be issued to Marlan V. Dooley d/b/a High Plains Cab Service, McCook, Nebraska,

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authorizing the services of a common carrier by motor vehicle as set forth herein.

IT IS FURTHER ORDERED that applicant shall not be issued a 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 Section 75-305 (fees), 75-307 (insurance), and 75-308 (rates), R.R.S. 1943, as amended, 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 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.

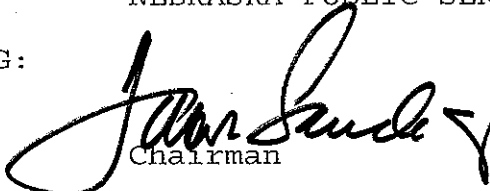
MADE AND ENTERED at Lincoln, this 29<sup>th</sup> day of June, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

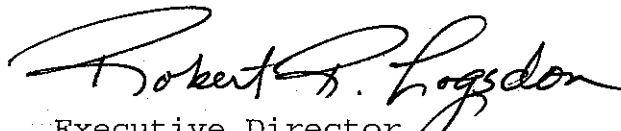
COMMISSIONERS CONCURRING:

//s//Frank E. Landis  
//s//Daniel G. Urwiller

  
Chairman

ATTEST:

  
Executive Director

# SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

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