

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)
Application of Blaine Rentals,)
Inc., d/b/a The Panhandle)
Runaround, Chadron, seeking)
authority as a common carrier)
in Nebraska intrastate)
commerce in the transportation)
of passengers by sedan and/or)
minivan between points in)
Dawes, Sheridan and Sioux)
counties and between points in)
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.)

APPLICATION NO. B-1549

PROTESTANT'S MOTION
FOR REHEARING AND/OR
RECONSIDERATION
DENIED

ENTERED: JANUARY 8, 2002

BY THE COMMISSION:

OPINION AND FINDINGS

On this 8th day of January, the Commission considered the Motion for Rehearing and/or Reconsideration filed by Midwest Special Services, Inc., Protestant, in the matter of Blaine Rentals, Inc., d/b/a The Panhandle Runaround, f/k/a Rent-A-Wreck of Chadron, in Application No. B-1549.

After hearing oral arguments and being fully advised in the premises, the Commission is of the opinion and finds:

1. The Motion for Rehearing and/or Reconsideration should be denied.
2. The Commission's order of October 16, 2001, in Application No. B-1549 should be affirmed.

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Motion for Rehearing and/or Reconsideration filed in Application No. B-1549 be, and it is hereby, denied; and that the order of October 16, 2001, entered in Application B-1549, be, and it is hereby, affirmed.

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MADE AND ENTERED at Lincoln, Nebraska, this 8th day of January, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



Chair



//s//Anne C. Boyle

ATTEST:



Executive Director

DISSENT: Commissioner Frank Landis

I respectfully dissent. Proof of applicant's financial fitness was improperly admitted into evidence. As the hearing officer, I, on my own motion, entered the application into evidence in an untimely fashion so as to preclude cross-examination of the only exhibit demonstrating financial fitness. Underlying all judicial and quasi-judicial proceedings is the requirement of fundamental fairness; both the applicant and the protestant are entitled to a fair hearing. The applicant was pro se throughout this proceeding, however, nothing in statute provides a lesser burden for an applicant who chooses to proceed without legal counsel. Having continued the applicant's hearing once before because it was clear that he was uncertain about the requirements of proof for obtaining authority, I inappropriately attempted to ensure a complete record. Therefore, the application should be dismissed upon that basis.

Even if admission of the application was proper, the application should be denied with regard to the Health and Human Services (HHS) designation sought by applicant for failure to demonstrate public convenience and necessity. Only one witness testified in favor of additional service for HHS, and that witness testified that in the past year, only one trip had been missed for failure to find transportation. She testified that in the last six months to one year, she had four to five trips per week, and there was only one occasion on which existing carriers could not respond. By allowing one missed trip out of approximately 250 trips per year to constitute need, makes, in my view, an absolute mockery of the statutory requirement to prove public convenience and necessity. It also disregards the work the Commission has done over the past twelve months to carefully define HHS carriage and the requisite proof of public convenience and necessity.