

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Laidback) APPLICATION NO. B-1577
Limousine, Inc., Omaha, seeking) SUPPLEMENT 1 & SUPPLEMENT 2
to extend its authority in the)
transportation of passengers by) DENIED IN PART AND
limousine.) GRANTED IN PART
)
) ENTERED: APRIL 1, 2008
)

APPEARANCES:

For the Applicant:

Brad Kistler
121 South 13th Street
Suite 601
PO Box 85778
Lincoln, Nebraska 68501

For the Protestants:

MAVM, L.L.C, d/b/a A & B
Shuttle; and Al Limousine,
L.L.C.:
Marshall D. Becker
3814 Dodge Street
Omaha, Nebraska 68131

For the Commission Staff:

Mark Breiner
300 The Atrium
1200 N Street
Lincoln, Nebraska

BY THE COMMISSION:

B A C K G R O U N D

By Applications filed April 30, 2004, Laidback Limousine, Inc. (Laidback or Applicant) of Omaha, Nebraska seeks to extend its authority by adding Supplements 1 that allows for the transportation of passengers and their baggage between points in Douglas, Sarpy and Lancaster Counties over irregular routes utilizing all vehicles except buses. RESTRICTION: Transportation of railroad train crews and their baggage is not authorized, and Supplement 2, which would allow for the transportation of passengers and the baggage between points in Douglas, Sarpy and Lancaster Counties over irregular routes in charter bus service.

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RESTRICTION: Transportation of railroad train crews and their baggage is not authorized. Notice of the application was published in the Daily Record, Omaha, Nebraska, on June 8, 2004 and September 10, 2004. Notice of hearing was mailed to all interested parties on January 20, 2005. The hearing notice was entered into the record as Commission Exhibit 1. The Daily Record publication was entered into the record as Commission Exhibit 2. The application was entered into the record as Commission Exhibit 3.

Protests to the application were filed on June 17, 2004 by Abbott Transportation through its authorized representative, Michael Abbott; on June 21, 2004 by A1 Limousine, LLC (A1), VIP Limousine, LLC (VIP) and VIP Limobus, LLC (Limobus) through their authorized representative, William Alford II; on June 30 2004, by Yellow Cab and Limo, Inc. and Royal Coach Lines, LLC through its representative Ronald D. Hippen; on September 16, 2004, by MAVM Ventures, LLC, d/b/a A & B Shuttles (MAVM) through its attorney, Marshall Becker; and on October 12, 2004 by A1 Limousine, LLC (A1), VIP Limousine, LLC (VIP) and VIP Limobus, LLC (Limobus) through their authorized representative, Dennis Wagner; A hearing on the application was held on February 2, 2005 with appearances listed above. This hearing was combined with the hearing on the requested extension of authority in Application B-1618.

In its current Application, the Applicant seeks to add the following supplements to B-1618: SUPP 1.: transportation of passengers and their baggage between points in Douglas, Sarpy and Lancaster Counties over irregular routes utilizing all vehicles except buses. RESTRICTION: Transportation of railroad train crews and their baggage is not authorized. SUPP 2.: transportation of passengers and the baggage between points in Douglas, Sarpy and Lancaster Counties over irregular routes utilizing buses. RESTRICTION: Transportation of railroad train crews and their baggage is not authorized.

E V I D E N C E

APPLICANT'S EVIDENCE

Applicant produced one witnesses in support of its application. The testimony and evidence provided the following:

Mr. Bradford E. Kistler, attorney representing Royal in this matter and Applicant Laidback Limousine, Inc. (Laidback) with regard to Application B-1577 made a brief opening statement in which he stated that Royal and Laidback are attempting to extend its authorities in the same territories they presently

hold certificates. The present proposed extension for both Laidback and Royal seeks to conform their authorities to the Commission's current practices. Mr. Kistler states that limousine service in Nebraska is an upscale service provided at a premium rate, and if that rate is charged, the Commission will not concern itself with the type of vehicle used. The second part of the application is for the extension for charter bus service. As to this issue, Mr. Kistler stated that the Commission may regulate as to fitness; however, as to public convenience and necessity considerations, the Commission is subject to federal preemption such that neither applicant must make a showing as to either.

Mr. Marshal Becker, attorney appearing for the above listed Protestants, responded that there has been limousine service prior to the Commission establishing such. Further, when the Applicants originally received authority, they named the types of vehicles they used. Also, he stated that the Protestants would be prejudiced by the Applicants not having to show what types of vehicles they are using.

Mr. Bradford called Mr. Lee Hale as a witness. At the same time, Mr. Bradford entered the following Exhibits without objection from Mr. Breiner or Mr. Becker: Exhibit Number 4, the Certificate of Public Convenience and Necessity with regard to Royal and Application B-1618; Exhibit Number 5, a resume of the authority of Laidback Limousine, Inc in Application B-1577; Exhibit Number 6, a list of motor vehicles; Exhibit Number 7, a document titled Royal Limousine, Inc., Balance Sheet as of November 30, 2004; Exhibit Number 8, a two page document entitle Royal Limousine Profit and Los, January through November, 2004; Exhibit Number 9, a document entitled Laidback Limousine., Balance Sheet as of June 30, 2004; Exhibit Number 10, a document entitled Laidback Limousine, Inc., Profit and Loss, June, 2004; Exhibit Number 11, a document entitled Sealrite Insulation, Inc., Balance Sheet, as of November 30, 2004; Exhibit Number 12, a document entitled Royal Limousine which sets forth date, type, pickup, and other categories; and Exhibit Number 13, a document entitled Laidback Limousine, Inc. which sets forth date, type pickup and other categories.

Mr. Hale testified during direct testimony that he has been employed three years by Laidback Limousine and Royal Limousine as a general manager overseeing both companies. In that capacity, Mr. Hale testified that he takes care of incoming calls, bookings, drivers, the cars, the vehicle fleet, maintenance of vehicles and other assorted tasks as needed. In describing the operations of Laidback Limousine, Mr. Hale testified that, of the two companies, Laidback was the smaller

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of the two with authority restricted to three counties. Laidback utilizes six, eight, 10, 12 and 14 passenger limos, along with SUV style limos. Mr. Hale also testified that as of the time of his testimony, both Laidback and Royal were in the limousine business.

As to Exhibit Number 4, the authority of Royal to operate pursuant to Application B-1618, Mr. Hale stated that Royal can provide limousine service and has authority to run sedan service consisting of smaller limos which transport airport passengers and corporate clients over irregular routes in Dodge and Saunders counties. Additionally, the authority allows for the transport of passengers through Lancaster, Butler, Douglas and Washington counties. Mr. Hale continued that the current requested extension of authority would cover the same territory as was previously described. The extension of authority, Mr. Hale stated, would remove the restriction prohibiting the transport of passengers by vans. Mr. Hale testified that he wanted this restriction removed to allow Royal to meet requests from customers he receives for vans. This van service would be provided at a premium rate.

With regard to Exhibit 5, the authority of Laidback to operate pursuant to Application B-1577, Mr. Hale testified that this authority allows Laidback to transport passengers and their bags by limousine between points in Douglas, Sarpy and Lancaster counties over irregular routes. Further, Mr. Hale testified that Laidback's authority was only used in those counties. The restriction that this proposed extension would remove would allow for Laidback to use sedan service. Mr. Hale stated that this restriction restricts traffic originating in Lancaster County and the transportation utilizing sedan service, which is transportation used for airport and corporate transportation. Additionally, Mr. Hale testified those services that are restricted as to Laidback can be provided by Royal. He continued by emphasizing that Laidback and Royal are under common ownership. Moreover, both companies lease vehicles from Bittner's, Inc.

Mr. Hale further testified that Exhibit Number 6 is the list of vehicles utilized by both Laidback and Royal specifying that each is actually owned and leased by and through Bittner's and which vehicle is operated by either Royal or Laidback. The list also shows when the Commission's plates expire. Mr. Hale continued that the cars in the companies' fleets are older, 1996 or 1997, and that he sees to their maintenance. He also stated that the vehicles are kept clean and are washed daily after use, inside and out. Continuing on, Mr. Hale stated that both Royal

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and Laidback are willing to lease new and additional vehicles to meet increased demand, demand, which he claims, already exists.

As to the drivers that are hired by both Laidback and Royal, Mr. Hale stated that he looks to hire drivers over 26-years-old of either gender. In addition to professionalism and promptness, Mr. Hale testified that the drivers are uniformed in suits or tuxedos and that they are trained under experienced drivers. At this point, Mr. Becker asked whether this line of inquiry was necessary given that the extension of authority dealt with the addition of vehicles not the fitness of the applicants. Mr. Kistler responded that the presentation of the operator's fitness was necessary in any grant of authority to a motor carrier by the Commission. In response, Commissioner Boyle stated that she was willing to accept the assumption that the companies would maintain the same level of service under the extended authority if granted. Mr. Hale continued in testifying that the companies have a large warehouse and offices with office equipment capable of running the business. Lastly, Mr. Hale stated that the company was open 8:00 a.m. to 5:00 p.m.

As to the matter of the requested extensions, Mr. Hale testified that, in his opinion, there is no difference between a limousine and luxury limousine as they provide the same amenities. In the course of its operations, Mr. Hale testified that the companies have corporate clientele which they transport, both those that are visiting the area and those that reside in the area. Also, Mr. Hale stated that there had been requests for stretch Cadillacs and SUV types of Ford Excursions, Chevrolet Suburbans and Expeditions. As to the corporate clientele the companies serve, Mr. Hale testified that they prefer sedans, vans or SUV's that are not stretch.

At this point, Mr. Becker objected to a comment by Mr. Hale that the corporate clientele likes not to appear ostentatious as it is hearsay, which Commissioner Boyle upheld. Commissioner Boyle allowed Mr. Hale to testify that the corporate clientele requests sedans, vans or common SUV's over an objection by Mr. Becker that it is hearsay. Mr. Hale continued that given such requests, this is the type of service Royal and Laidback would like to provide. Additionally, although these types of vehicles are not limousines in what Mr. Hale would consider the classical description of such, if allowed to provide such service, the quality of service would be maintained. Mr. Hale also testified that both Royal and Laidback intended to provide such services at the premium rates required by the Commission.

After a series of objections by Mr. Becker, Commissioner Boyle allowed Mr. Hale to testify as to records that she would

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allow to be admitted as evidence. These documents are from limoservice.com and 1-800-limo service. Mr. Hale had five requests from these either of these companies which contained requests from clients in other cities who wanted to utilize Royal or Laidback. The types of vehicles desired in these requests were for common SUV's or vans that could carry passengers, and occasionally luggage and equipment. Mr. Hales continued that neither Royal nor Laidback had vans nor SUV's, but could get such if their authority was extended.

Mr. Hale testified that in addition to the previously mentioned extensions of authority for both Laidback and Royal, both companies were seeking an authority which would allow them to operate a charter bus service. This type of service is one that Mr. Hale believed that no Omaha area company provided and would be the type that would provide school bus type service utilized for bachelorette parties, bachelor parties, church functions, school functions and other functions where the client cannot afford a limousine, but can afford a bus-type service. Mr. Hale continued that he would provide the amenities in these buses as was required by his customers; however, these buses were not intended to be luxury in nature.

On cross-examination by Mr. Becker, Mr. Hale testified that neither Laidback or Royal owns its own equipment. The equipment is owned by Bittner's, Inc. Mr. Hale continued in stating that whatever the result of the Commission decision in this matter, neither Laidback nor Royal will purchase any equipment on its own. Laidback and Royal lease all of their equipment from Bittner's, Inc. Testifying further, Mr. Hale stated that Exhibit Number 6 is a list of items leased from Bittner's, Inc. by Laidback. Laidback presently has just one piece of equipment on file with the Commission: a six-passenger, 1998 black Lincoln Town car limo. Mr. Hale testified that if the application were granted as he wanted it, then Laidback could offer all types of vehicles, which they would get from Bittner's Inc.

Mr. Hale further testified that if the applications were granted, he would be able to operate whatever vehicles he was considering and Bittner's Inc. would purchase them. Any vehicle would be registered under either Royal or Laidback. Mr. Hale stated that any vehicle could be operated as a limousine if it was termed a premium. Mr. Hale testified that he currently operates limousines and intends to operate SUVs and vans if he received a favorable ruling. Presently, he has vans that he does not utilize and are not on record with the Commission. The Laidback rate is \$50 an hour. It is Mr. Hale's understanding that the Commission has established that a premium rate is at least \$50 an hour. Mr. Hale continued that if he had the

authority to operate vans, he would operate charter or passenger vans holding no more than 15 passengers. Mr. Hale further testified that he was familiar with Laidlaw and Chief of Omaha as potential alternative carriers in Omaha. He also stated that he was aware that Laidlaw does some type of charter service in Omaha, but stated that his services would be different in terms of colors and options inside the vehicles.

Upon interrogation by Mr. Breiner, Mr. Hale testified that he is proposing to change the vehicles he is using, not the service he is providing, although he will still run a limousine service. He further testified that he is aware that a restrictive covenant was filed that restricted the authorities against the use of transportation of vans originating in Lancaster County. Continuing forward, Mr. Hale testified that he defines a "common SUV" as a non-stretched SUV limo. Further, he stated that this would be a common, every day vehicle without a doctored inside or TV, such as a SUV Ford Expedition, Chevrolet Suburban, or Ford Excursion.

Additionally, Mr. Hale stated that some of the vans that Mr. Hale would like to put into service are common vans that provide transportation for more than four or five people plus luggage. The service provided would differ from Laidlaw and Chief in that the provided vehicles will be nicer and for a different clientele. Lastly, Mr. Hale stated that all the leases listed on Exhibit Number 6 are on file with the Commission.

During Mr. Kistler's redirect examination, Mr. Hale testified that it his understanding that A & B Shuttle (A & B) picks up passengers up from the airport, but that they do not charge a premium rate for the service as they do not have limousine authority. Mr. Hale continued that if he were to receive authority, the applicants would charge a higher rate than A & B. At this time, Commissioner Boyle upheld an objection by Mr. Becker in which Mr. Becker stated that he wished that Mr. Hale's answer be stricken due to the fact that Mr. Hale does not know what A & B's current rate is, and therefore, he cannot be sure that his applicant's rate would be higher. Mr. Hale closed by stating that, even if A & B's rates are lower, his applicant's services would be attractive to his current customer base and those customers looking for a uniformed driver and vehicle.

Mr. Becker and Mr. Kistler stipulated at this time to the fact that if Ms. Sherry Bittner were called to testify, she would testify that financial statements previously entered into evidence are the financial statements of the respective companies, that the applicants are affiliated companies and that

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Sealrite Insulation is willing to extend additional capital to Laidback, Royal or both, as needed, to ensure the financial strength of the companies.

PROTESTANT'S EVIDENCE

The Protestants collectively produced one witness in opposition to the application.

Mr. Becker called Mr. William Alford of A1 Limousine (A1) and VIP Limousine (VIP) to testify. Mr. Alford testified that his company recently purchased Omaha Limousine, and that they hold authority accordingly. Mr. Alford continued that his companies hold bus authority, limousine authority and van authority which cover the full state. Mr. Kistler objected that these statements as to the authority were not best evidence, and that the authorities should speak for themselves. Mr. Becker agreed.

Mr. Becker then entered in Exhibit Number 14, an equipment list from Mr. Alford's company. Mr. Alford testified that the list showed all of the equipment presently owned or operated by his company, a combination of which are leased or owned. The vehicles that are leased are done so through various lending institutions. Mr. Alford further stated that his company provides stretch limos, SUV's stretch sedans, shuttle buses, vans and sedans. Mr. Alford continued that, on his mind, there is no differentiation between a regular limousine and a stretch limousine. Further, in Mr. Alford's description, a stretch limousine is one that has been cut and stretched.

As to his protest, Mr. Alford stated that if the Commission limits the distinctions on the different types of vehicles, which will reduce the profitability for the remaining companies, which will ultimately hurt Royal and Laidback as well. This will occur because the increase in the number of vehicles will adversely impact and stress other competitors. Additionally, Mr. Alford stated that he does not protest applications that do not interfere with his businesses. Also, he would protest any such application like one in question in this matter because Laidback and Royal could transfer their expanded authority, and this transfer would add more competition into the marketplace.

Continuing on, Mr. Alford stated that he was not aware if the Commission had actually established what the premium rate was. Moreover, he stated that, in his opinion, if the applicants were allowed to operate any vehicle under an authority once a premium rate was established there would be confusion.

Mr. Alford further testified that his company has recently invested in purchasing other companies and vehicles. With regard to companies purchased that have bus authority, Mr. Alford said he has purchased Abbott, Greater Omaha Tours, Beatrice Limousine, Royal Bus Line and VIP Specials. Mr. Alford attested that it was his opinion that there are too many companies in this marketplace to have them be profitable, and that the lack of profits will hurt the public because the companies will cut back on essential items like drug screens, background checks, maintenance and training. After an objection by Mr. Kistler as to whether Exhibit Number 14 established this type of reasoning, Exhibit Number 14 was entered as it did not establish the possible consequences of the entrance of other competition into the market.

On cross-examination by Mr. Kistler, Mr. Alford asserted that, in his opinion, limousine service means vehicles that are used to pick up people by chauffeur or driver. As to the quality of vehicle indicative of limousine service Mr. Alford stated that, although he does not know the exact Commission criteria, the common understanding of the word limousine includes sedans, stretch sedans and SUV's. Also, Mr. Alford testified that he was not any requirement that he was aware of that made it necessary that vehicles be modern. Additionally, Mr. Alford stated that he was not aware of the Commission's definition of limousine or limousine service. Mr. Alford then stated that he believed the applicants' existing authority contained a prohibition against transportation starting or originating in Lancaster County as well as a prohibition against vans. Further, Mr. Alford reported that it was his understanding that the Commission had historically regulated limousine, bus transportation or bus service originating in Omaha to points in Omaha or Douglas County and that his companies have tried to abide by those regulations. Mr. Alford continued that he would provide his customers vehicles which match the ones they request. Mr. Alford also stated that his companies could farm out certain transportation requests to Royal if Royal had a van that it was using, and that such would be beneficial to him.

During interrogation by Commissioner Landis, Mr. Alford testified that he had a regular van to provide customers. Mr. Alford stated that he had to file a lease with the Commission and rent the van from some of the vendors that rent those vehicles for a specific use. Also, Mr. Alford commented that he had received requests for regular vans, but not many. If different vehicles are needed than what his fleet has, Mr. Alford stated that he could farm the work out or rent a vehicle if the proper insurance was garnered and lease reporting was made through the Commission.

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Mr. Becker requested that the Commission take in Exhibit Number 15, the equipment list of A & B Shuttle. A & B did not attend the hearing. The Exhibit was received into evidence.

In his closing, Mr. Kistler stated that the bus issue brought forward by the applications was subject to federal preemption. As to the limousine portion of the application, Mr. Kistler continued that, with regard to van service, Mr. Alford is not involved in that type of service so the applicant's entrance will not harm Mr. Alford. Moreover, given the Commission definitions of limousine and limousine service, the type of vehicle a company is providing should not matter. In Mr. Kistler's opinion limousine service consists of the following elements: the business of carrying passengers for hire by a vehicle; along a route under the control of the person who hired the vehicle and not only a defined route; on a prearranged basis; and at a premium fare. As such, Mr. Kistler reported that the market should decide what vehicles are used. Moreover, granting this extension would not allow the applicants to do any more than they already have been allowed under their existing authority as their service maintains all four of his previously mentioned elements.

In his closing, Mr. Becker stated that the market will be decided by the type of witnesses that one has in an application. Additionally, he stated that he does not believe that the type of vehicle the Commission authorizes has been changed by their definition. Further, Mr. Becker commented that he does not believe the Commission has established what a premium rate is for the purposes of limousine service. Also, Mr. Becker stated that he believes if the Commission uses Mr. Kistler's interpretation that it will be burdened by many more protests because it will not be known what type of vehicle the applicant intends to use. Also, Mr. Becker continues that, under Mr. Kistler's definition, all that will matter in analyzing limousine authority is whether a company is charging a premium rate which will hurt taxi service.

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

The granting of a certificate of public convenience and necessity is governed by Neb. Rev. Stat. § 75-311 (Reissue 2003) which states,

A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application of it is found after notice and hearing that (a) the

applicant is fit, willing, and able properly to perform the service proposed...and (b) the proposed service, is 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.

Neb. Rev. Stat. §75-311(1) (Reissue 2006).

In other words, the Commission must apply a two-part test. First, the Commission must determine if an applicant is "fit, willing, and able." Upon consideration of the evidence adduced at the hearing, we find that the applicant has met the fitness test of § 75-311. The applicant is a currently certificated carrier. There was no issue presented to the Commission that would place the fitness of the Applicant in question. Applicant has sufficient resources demonstrating it is willing and able to provide the proposed service. Additionally, Mr. Becker concedes that the fitness of Royal and Laidback is not an issue with regard to these requested extensions of authority.

We therefore turn to the issue of whether the proposed service is or will be required by the present or future public convenience and necessity. The traditional analysis for determining "need and necessity" was set forth by the Supreme Court in its May 8, 1998 ruling,

In determining public convenience and necessity, the deciding factors are (1) whether the operation will serve a useful purpose responsive to a public demand or need, (2) whether this purpose can or will be served as well by existing carriers, and (3) whether it can be served by the applicant in a specified manner without endangering or impairing the operations of existing carriers contrary to the public interest.

In re Application of Nebraskaland Leasing & Assocs., 254 Neb. 583, 591 (1998).

The issue of whether an applicant has met its burden of demonstrating that the proposed service is consistent with public convenience and necessity is ordinarily a factual issue. Id. Based upon the evidence provided in this proceeding, we find that Applicant has not demonstrated a sufficient level of

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need and necessity to support a grant in Supplement One of the application.

The only witness for the Applicant was its manager, Mr. Hale. While he testified as to needs that his company has received in the past that the granting of the application would allow the Applicant to meet, there was no further evidence placed before the Commission on this point. There was also no showing that there is an existing purpose that is not being met by current carriers. With the lack of evidence presented to the Commission on these two parts of the test, the Commission must find that the Applicant has failed to prove a case for finding of need and therefore must deny Supplement One of the Application on these grounds.

Supplement 2 is an application to provide charter bus service between points in Douglas, Sarpy and Lancaster counties over irregular routes. In this portion of the application, the federal government has preempted the Commission from applying the public need and necessity that is otherwise applied in the transportation of passengers and their baggage intrastate, but does allow the Commission to still require proof of fitness. The Commission has already found that the Applicant is fit, willing and able to provide this service. As the Applicant has passed that portion of the test, the Commission finds that Supplement 2 of the application should be granted. The certificate to be granted will not allow for the transportation of clients of the Nebraska Department of Health and Human Services.

Territory Requested (Supplement 2):

Common: Transportation of passengers and their baggage between points in Douglas, Sarpy and Lancaster counties over irregular routes in charter bus service. VEHICLE: Bus
RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. HHS Designation: No.

From the evidence adduced and being fully informed in the premises, the Commission is of the opinion and finds:

1. The applicant is fit willing and able properly to perform the service proposed and to conform with the provisions of Neb. Rev. Stat. § 78-301 to 75-322 and the requirements, rules and regulations of the Commission thereunder.

2. The proposed intrastate service should be approved as to Supplement 2 to the following extent:

C E R T I F I C A T E A U T H O R I Z E D

SERVICE AND TERRITORY AUTHORIZED: Common: Transportation of passengers and their baggage between points in Douglas, Sarpy and Lancaster counties over irregular routes in charter bus service. VEHICLE: Bus RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. HHS Designation: No.

3. Supplement 1 of the application should be denied.

The Applicant should be aware that operations in violation of this or any other order of the Commission or operations outside the scope of Applicant's certificated area will result in civil penalties of up to ten thousand dollars per day as provided in Neb. Rev. Stat. § 75-156 (2006) or in a suspension or revocation of Applicant's certificate.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1577, Supplement 1 be, and it is hereby, denied; and Application b-1577, Supplement 2 be, and it is hereby, granted; 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 Laidback Limousine, Inc., 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 applicant has fully complied, within a reasonable time from the effective date of this Order, with Neb. Rev. Stat. §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 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 any rate violations be remedied prior to the issuance of a Certificate of Public Convenience and Necessity.

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

MADE AND ENTERED at Lincoln, Nebraska, this 1st day of April, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



Chair



ATTEST:



Executive Director



//s// Anne C. Boyle
//s// Frank E. Landis