

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the matter of the) APPLICATION NO. B-1581
application of Servant Cab) SUPPLEMENT 1
Company LLC d/b/a Yellow)
Cab Company and Capital Cab)
Company seeking to institute a)
new service in the)
transportation of passengers)
and their baggage by taxicab)
between points in Nebraska)
over irregular routes as a)
common carrier. RESTRICTION:) DENIED
The transportation of)
passengers and their baggage by)
taxicab originating from or)
point to point within any)
territory where a taxicab holds)
a certificate or permit, except)
Douglas, Sarpy and Washington)
Counties, is not authorized.)
HHS designation: Yes.) ENTERED: AUGUST 21, 2012

APPEARANCES

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For the Protestants:

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d/b/a Cornhusker Cab Company,
Happy Cab Company d/b/a Yellow
Cab Company, Happy Cab Company
d/b/a Happy Cab Company and
Valor Transportation Company
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BY THE COMMISSION:

BACKGROUND

By application filed on January 25, 2012, Servant Cab Company LLC d/b/a Yellow Cab Company and Capital Cab Company of Lincoln, Nebraska ("Applicant" or "Servant"), seeks authority from the Public Service Commission ("PSC" or "Commission") to operate as a common carrier in Nebraska intrastate commerce in the transportation of passengers by taxi between points in Nebraska over irregular routes. RESTRICTION: The transportation of passengers and their baggage by taxicab originating from or point to point within any territory where a taxicab holds a certificate or permit, except Douglas, Sarpy and Washington Counties, is not authorized. HHS Designation: Yes. Notice of the application was published in The Daily Record, Omaha, Nebraska, on January 30, 2012. Timely protests to the application were filed by Happy Cab Company, d/b/a Checker Cab Company, Happy Cab Company, and Yellow Cab Company; DonMark, Inc. d/b/a Cornhusker Cab Company and Valor Transportation Company d/b/a Safeway Cab Company (collectively "Happy Cab" or "the Omaha Cab Cos."), through their attorney, Andy Pollock; Armadillo Express, also known as RailCrew Xpress Corp. through its attorney, Seth Felton; Golden Plains Services of McCook, Nebraska; and Yellow Cab & Limo of Beatrice, Nebraska.

A planning conference was conducted by the Commission, with all parties participating, on March 27, 2012, and a Planning Conference Order was entered on April 3, 2012. The Planning Conference Order scheduled the hearing date, discovery and other deadlines. During the course of the planning conference, Ron Hippen, on behalf of Yellow Cab & Limo, indicated that in light of the taxi restriction appearing in the application, Yellow Cab & Limo would no longer participate in this proceeding. A supplemental hearing officer's order was entered on May 1, 2012, the purpose of which was to establish June 21, 2012, at 9:00 a.m. as the time when public comments would be heard in this proceeding.

A hearing on the application was held on June 19, 20 and 21, 2012, in Omaha with appearances as listed above. Notice of the hearing was sent to all parties of record on April 3, 2012.

APPLICANT'S EVIDENCE

Kirby Young testified first for the Applicant. Mr. Young is the Managing Member of Applicant, a position he has held for

the last ten years. Mr. Young discussed the financial, managerial and technical capability of the Applicant to provide the proposed service. Applicant currently operates a taxi service in Lancaster County as authorized on Exhibit 4. Mr. Young confirmed that Appendix C to Exhibit 5 is the Applicant's balance sheet showing a capital account balance in excess of \$360,000. Mr. Young also testified that the Applicant has a line of credit with First State Bank of Lincoln in the amount of \$250,000. Mr. Young confirmed his familiarity with the Commission's rules and regulations for taxi service and affirmed Applicant's current compliance with the rules and the Applicant's intent to comply with all such rules should this application be granted. The Applicant carries liability insurance in compliance with the Commission's rules and has never been subject to any formal complaint during the ten year term of Mr. Young's ownership. Mr. Young stated that the Applicant has never turned down a request for transportation unless such turndown is authorized under the Commission's rules.

Mr. Young went on to describe the process of driver selection which includes background checks, review of driving records and administration of drug tests. Applicant currently employs 40 drivers all of whom are employees and 10 to 15 other employees who fill such positions as mechanic, phone operators and dispatchers. Applicant intends to hire more drivers if this application is granted and believes it could put at least 30 drivers to work in very short order. Applicant currently operates eight wheelchair accessible vehicles and 27 other vehicles. Approximately 20% to 25% of Applicant's current taxi business is generated by passengers who are wheelchair bound. It would be critical in order for Applicant to make efficient use of its vehicles that it utilize wheelchair accessible vehicles to transport both wheelchair bound passengers and ambulatory passengers. Applicant initially plans to station 12 vehicles in Omaha should the application be granted, two of which would be wheelchair accessible. Other vehicles would be stationed outstate if the application is granted. Initially, Applicant would not have a physical location in Omaha, but would conduct its dispatch from Lincoln by radio, electronic communication devices and phone. All of Applicant's drivers would be employees. Applicant would transfer its vehicles back and forth between Lincoln and Omaha as demand dictates, for example, by placing more vehicles in Omaha during the College World Series and the Berkshire Hathaway annual meeting, as well as other events.

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A copy of Applicant's current Lincoln rates, as approved in docket TR-185, were received in evidence. Also received in evidence was Applicant's request for rates throughout the territory of this application, which was docketed by the Commission as TR-191. Notice of the rates requested in TR-191 was published in the *Daily Record* on May 14, 2012. The rates proposed in TR-191 mirror those previously approved by the Commission in TR-185. Applicant's proposed rates are higher than those of the Omaha Cab Cos. because Applicant's drivers are employees as opposed to independent contractors. Applicant identified various costs related to the employment of drivers which were received as Exhibit 8. The expenses identified on Exhibit 8 are expenses not incurred by carriers utilizing independent contractors. Exhibit 9 was also received into evidence, which is a TaxiFareFinder website page which shows that an average trip (excluding any fuel surcharge) in Lincoln, Nebraska costs \$18.09 while an average trip in Omaha, Nebraska costs \$15.84. Applicant submitted Late Filed Exhibit Nos. 42 and 43, which calculated its proposed rates between the Double Tree Inn ("Double Tree") in downtown Omaha and Eppley Airport and between the Hampton Inn ("Hampton") in LaVista and Eppley Airport. The Omaha Cab Cos. currently operate between hotels and the airport under a flat rate schedule. The flat rate is \$12.25 between the Double Tree and Eppley Airport and \$42.50 between the Hampton and the Eppley Airport. Late filed Exhibit 42 demonstrates Applicant's proposed rate between the Double Tree and Eppley Airport at \$18.70 and Applicant's proposed rate between the Hampton and Eppley Airport at \$48.00. If a customer utilizes a credit card to pay for the fare, the Omaha Cab Cos. assess a \$3.00 charge. Applicant will not charge any fee for a passenger who uses a credit card.

Applicant's projected revenues and expenses for the Omaha area were contained on Exhibit 10 which was received in evidence. Exhibit 10 projects a 10% profit on gross revenues of \$720,000 during the first year of operation. Applicant's late filed Exhibit 16 provides the background analysis of how the proposed revenues were calculated.

Mr. Young testified there is no taxi service in Omaha that offers wheelchair accessible taxis, nor is there any type of on-demand wheelchair accessible service. Applicant proposes to offer wheelchair accessible service throughout the geographic territory sought by the application. In response to a question from Commissioner Boyle, Mr. Young testified that he had met with numerous people and entities throughout Omaha including hotels, motels and various advocacy groups which offered support

for the application. On further questioning by Commissioner Boyle, however, Mr. Young was not able to give either a name or an organization that he had met with that offered support.

Mr. Young testified there are currently the five Omaha Cab Cos. and City Taxi offering taxi service in Omaha. All five of the Omaha Cab Cos. are under common management. City Taxi's authority is geographically restricted so as to limit its service in the Omaha metropolitan area. Mr. Young stated that after having consulted with taxi consumers in Omaha, he determined there was a need for additional taxi service. Mr. Young believes there is a need for wheelchair accessible taxi service and that consumers should have a choice when selecting taxi service. Mr. Young testified he recognized that there were certain peak periods of demand for taxi service in Omaha just as there are in Lincoln. For example, when special events like the College World Series and the Berkshire Hathaway annual meeting are held in Omaha as well as at bar closing time.

Applicant currently transports railroad train crews for Amtrak in Lincoln and would likewise transport Amtrak train crews in Omaha and throughout Nebraska if the application is granted. Mr. Young stated it is his opinion that public convenience and necessity would be served by a grant of Applicant's application. Exhibit 11 was also received in evidence which contained a list of complaints made to the Commission involving the Omaha Cab Cos. service. Exhibit 11 also listed citations issued to three Omaha Cab Cos. drivers. None of the Protestants possess authority to provide taxi service throughout the geographic territory sought by this Application.

On cross-examination, Mr. Young denied that Applicant's filing of this application was in response to the Omaha Cab Cos. filing an application to serve Lincoln. Mr. Young testified that for many years, the Applicant had considered expanding its service to Omaha. Mr. Young described Servant's wheelchair accessible vehicles as ADA compliant minivans with ramps which are customized to accommodate wheelchair bound passengers. Following cross-examination regarding Applicant's authority to utilize minivans, Late Filed Exhibit 12 was admitted in evidence, which is a Commission Order entered on June 5, 2002, authorizing Applicant to utilize minivans. Applicant does not currently allow its passengers in Lincoln to utilize credit cards, but it will allow credit card use in Omaha if this application is granted. Mr. Young testified the Applicant is in compliance with all requirements of the Nebraska Department of

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Health and Human Services to transport its clientele. Exhibit 13 contains complaints made to Servant Cab by its customers. Exhibits 14 and 15 were informal complaints made to the Public Service Commission regarding Applicant's service in Lincoln, the vast majority of which were made by e-mail on January 31 and February 1, 2012.

During cross-examination by Mr. Felton, Mr. Young testified that the Applicant currently has a contract with Amtrak for the transportation of its train crews and currently transports those crews in its authorized territory. Pursuant to the contract, Applicant is required to maintain certain safety equipment within its vehicles when transporting Amtrak crews. Amtrak train crews also require transportation outside of Lincoln.

In response to an inquiry from Commissioner Boyle, Mr. Young testified that drivers are paid a commission based on the gross revenue for the trip. In response to a question from Commissioner Schram, Mr. Young stated that all tips received by drivers are retained by the drivers.

Michael Costello testified he is employed by the Double Tree hotel in downtown Omaha as its Guest Services Manager. He has been employed in that position approximately one year. There are two Double Tree hotels in Omaha, both of which are under common ownership. The downtown hotel has 414 rooms and the Double Tree at 72nd and Cedar has 162 rooms. Mr. Costello's primary responsibility is fielding customer requests and acting as a concierge. Mr. Costello first spoke with Kirby Young of Servant Cab about this application in early January.

Mr. Costello had been approached by a representative of the Omaha Cab Cos. about setting up a cab stand on the Double Tree downtown premises. The Double Tree also was interested in arranging for a direct bill arrangement for taxi services paid by the hotel for its guest transportation. Following discussions with the Omaha Cab Cos., the direct billing arrangement and the cab stand were both put in place.

When Mr. Costello is on duty, one of his responsibilities is making calls to arrange for taxi service for the hotel's guests. Mr. Costello estimated that hotel guests require taxi service about a half dozen times a day. The Double Tree operates two shuttles from 5:00 a.m. until midnight each day. Mr. Costello has high expectations for the quality of service from the hotel's transportation providers.

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Mr. Costello has fielded complaints about the Omaha Cab Cos. regarding untimely service, cabs that did not show for pick up and drivers who did not assist in the loading of luggage. Mr. Costello fields such complaints at least a couple times each week and he knows other hotel staff have also received complaints regarding the current level of cab service. Mr. Costello is the manager on duty a minimum of three shifts each week, normally on Thursday, Friday and Saturday afternoons. When a call is made requesting taxi service for Double Tree guests, the dispatchers routinely say the cab will arrive in five to 20 minutes. Mr. Costello stated he has only one option for cab service and if the service is unacceptable his only choice is to call the company and complain or transport the guest himself which he has done in the past. Late pickups occur frequently enough to be of concern to Mr. Costello. When guests wait 15 to 20 minutes for a cab to arrive and no cab comes, it is generally too late to call back and wait another 15 to 20 minutes for another cab, so hotel personnel will transport the guests themselves. On one occasion an Omaha Cab Cos. cab driver charged a hotel guest \$24.00 for what should have been a \$12.25 flat fare. Mr. Costello has witnessed cabs which pulled up in front of the Double Tree where the driver would simply push the trunk release button and expect the guests to put their luggage in the trunk themselves. When the hotel transports guests they load the luggage for the guest and the hotel expects similar service when a cab is called. Mr. Costello believes business travelers expect to have their luggage handled for them. Neither a driver nor a dispatcher has ever called Mr. Costello and advised him that a cab was going to be late for a pick up. Mr. Costello believes the condition of the Omaha Cab Cos. equipment is "fair at best." Mr. Costello also expects cab drivers to present themselves well to his guests. Mr. Costello has shared his concerns about the level of service with both the Omaha Cab Co. representative named "Ron," as well as various dispatchers. Mr. Costello has been told by representatives of the Omaha Cab Cos. that it is a challenge to address the service issues because the drivers are independent contractors. Overall, Mr. Costello rates the Omaha Cab Cos. service as "fair."

As recently as one week before the hearing, Mr. Costello had difficulty arranging for cab service for some guests at the hotel. The guests were told by the cab dispatcher that it would take about an hour for a cab to pick them up. In an effort to meet the guests' transportation requirements, Mr. Costello called the cab company dispatch office where the phone rang approximately 20 times, when no one answered, he hung up. He

believes that because of the College World Series the demand was greater than the Omaha Cab Cos. could meet and so he arranged to have one of his subordinates transport hotel guests using the hotel shuttle outside of the normal shuttle operation hours.

Most customers do not inquire about cab rates and are more interested in having their transportation needs timely met. Mr. Costello recognizes that the rates proposed by Servant Cab are higher than those currently charged by the Omaha Cab Cos. The hotel frequently pays for taxi service for its customers if its shuttle is not available. Just as guests have choices when it comes to selecting a hotel or motel, Mr. Costello believes customers should have similar choices for taxi service. If Servant's application is granted, Mr. Costello would call them to provide taxi service to guests of the Double Tree. On at least one prior occasion Mr. Costello had to arrange for transportation for a hotel guest who was wheelchair bound. The hotel ended up making arrangements with an ambulance company. The cost of the transportation was so high that it was not cost effective for the Double Tree to pay for the ambulance service.

Mr. Costello also had a personal experience as a passenger in an Omaha Cab Cos. taxi recently. Approximately six weeks before the hearing Mr. Costello had an experience with the Omaha Cab Cos. which "was not good." Specifically the cab that came to pick him up was dirty. The driver spent most of the time during the trip talking on his cell phone while driving. Mr. Costello considered the driver's conduct unsafe.

Mr. Costello testified there is a need for additional cab service in the Omaha area. Further, Mr. Costello believes guests at his hotel should have a choice for taxi service. Mr. Costello stated that competition between taxi companies would be healthy and that customers would be better served in a competitive taxi environment.

On cross-examination Mr. Costello described the direct billing arrangement between the Double Tree and the Omaha Cab Cos. which allows the hotel to issue vouchers to cab drivers and to be billed monthly by the Omaha Cab Cos. Mr. Costello met with representatives of the Omaha Cab Cos. approximately two months before the hearing and voiced his concern about timely cab service. The Double Tree operates a total of four shuttle buses, including a 21 passenger, a 14 passenger and two 11 passenger vans. The shuttles are not wheelchair accessible. Mr. Costello is not concerned that rates for airport transportation provided by Servant, if the application is

granted, would be higher than the rates charged by the Omaha Cab Cos. Mr. Costello wants to be able to offer his hotel guests options for taxi service. The difference in rates is not a concern to Mr. Costello because it is possible the Omaha Cab Cos. could increase their rates and in the end the level of service is going to have the most impact. Mr. Costello was aware that the Omaha Cab Cos. had made application to expand service to Lincoln and that at certain times of the day there were transportation needs that were not being met in Lincoln. Mr. Costello stated a 43% higher rate for cab service, depending upon the passenger, could make anywhere from some difference to no difference. Mr. Costello testified that when the hotel shuttles are overwhelmed, the hotel must turn to cab service to transport its guests.

Mike Schafer testified he is the CEO of the League of Human Dignity ("the League") where he has been employed for 34 years. The transportation of disabled individuals is a frequent topic at the League board meetings. The League is a statewide organization with six offices providing services to people with disabilities to help them become and remain more independent. The League is a Nebraska nonprofit organization. The organization currently employs between 75 and 80 people. The League is funded from local government and at least 60% of the members of the board of directors of the League must be comprised of individuals with a disability and at least 51% of the staff must be individuals with a disability.

In Lincoln, StarTran operates a handy van program that is portal to portal transportation for people with disabilities. The League operates a program in Lincoln called "extended hours service" which provides 70 one way trips a week in wheelchair accessible vehicles. Passengers utilizing the extended hour service program, as a practical matter, must arrange for the trips in advance due to the limited number of trips and the high demand for service.

Mr. Schafer characterized the Applicant's service in Lincoln as an on demand service providing options for individuals who do not want to or cannot prearrange their transportation. One of Mr. Schafer's board members had untimely service from Servant but the board member continues to use Servant's on demand wheelchair accessible service. Mr. Schafer has had discussions with representatives of Servant over the years about wheelchair accessible service which Servant provides because "they believe it is the right thing to do." Mr. Schafer knows that the Applicant's service in Lincoln is well

received by consumers with disabilities. It is Mr. Schafer's understanding that the Omaha Cab Cos. will not provide wheelchair accessible service in Lincoln and do not provide wheelchair accessible service in Omaha. Mr. Schafer expressed his concern over Exhibit 17 which was an agreement between the Omaha Cab Cos. and Transport Plus wherein the Omaha Cab Cos. agreed not to provide wheelchair accessible service to people with disabilities in Lincoln until March 1, 2017. Mr. Schafer expressed his disappointment that wheelchair accessible transportation on demand is not available to people with disabilities. Mr. Schafer believes that currently those individuals with disabilities requiring wheelchair accessible transportation are excluded from having adequate transportation. Mr. Schafer testified that Transport Plus provides wheelchair accessible transportation in Lincoln but that the rates are in the neighborhood of \$25 per one way trip which is much higher than Servant's rates. Servant will be providing wheelchair accessible service at the same rate for wheelchair bound passengers as any other passenger.

The League has no program in Omaha similar to the extended hour service program in Lincoln. A portal to portal service providing wheelchair accessible service is available through the city although the service has geographical restrictions and operates only during certain specified hours. The League previously worked with a company named Shared Mobility to provide wheelchair accessible service in Omaha but Shared Mobility has recently gone out of business. Mr. Schafer believes that both Omaha and outstate Nebraska need on demand wheelchair accessible taxi service. Mr. Schafer, acting on behalf of the League, filed a complaint with the Commission disputing the practice of some carriers of charging a higher rate to provide wheelchair accessible service as opposed to that charged to people that were ambulatory. The Commission ultimately entered an order requiring that wheelchair accessible passenger service be provided at the same rate as all other passengers. The League is currently suing two transportation providers for failure to provide wheelchair accessible transportation. There are thousands of disabled individuals requiring wheelchair accessible service throughout the state. It is Mr. Schafer's opinion there is a need for additional cab service for disabled passengers and wheelchair bound individuals.

During cross-examination Mr. Schafer identified Metro Area Transit, Prince of the Road and Midwest Medical as entities that offer wheelchair accessible transportation in Omaha. Most of

the clientele which the League serves are low income individuals. Mr. Schafer opined that it was not a concern of his to compare Omaha Cab Cos. rates with Servant's proposed rates since no wheelchair accessible taxi service is offered by the Omaha Cab Cos. While private funding for the League of Human Dignity has decreased during the past five years, the demand for service continues to increase.

Ron Hug testified he is an independent contractor who acts basically as a driver manager and operations manager for City Taxi. City Taxi has been in business for 14 months. City Taxi was granted authority by the Commission in February 2012 to provide taxi service in Omaha. Exhibit 19 is the authority issued to City Taxi by the Commission which is restricted to operations east of 72nd Street, North of I-80 and South of Sorenson Parkway in Nebraska. The Omaha Cab Cos. have appealed the Commission's decision granting City Taxi the authority contained on Exhibit 19.

Mr. Hug fields calls for taxi service and performs dispatch for City Taxi. City Taxi receives calls on a daily basis to transport passengers beyond the geographic limits of its authority. Mr. Hug estimates that City Taxi receives two to four calls per day for which his company is not authorized to provide service. City Taxi operates two vehicles currently. On many occasions City Taxi drivers are approached by hotel guests inquiring as to the status of a taxi which had been called earlier but had not yet arrived. The drivers will apologize to the passenger but advise them they are only there to pick up passengers who have called City Taxi for service. The number of occasions where people inquire about the status of their cab occurs with more frequency on Friday and Saturday nights. Mr. Hug believes there is a need for additional taxi service in Omaha and that the market could sustain another taxi company. However, Mr. Hug stated that for another taxi company to enter the market, it must be an applicant with a proven track record of providing credible, reliable taxi service and not an entity who has been ticketed numerous times for performing illegal fares.

On cross-examination, Mr. Hug described his relationship to the company as that of an independent contractor who subcontracts with drivers to provide services for City Taxi. Currently City Taxi is advertising on the website HappyHours.com and in the phone books. City Taxi and Servant have both filed protests to the application of an entity by the name of Casino Taxi which is seeking authority in Omaha.

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John Pirruccello testified that he is the Network Transportation Coordinator for American Medical Response ("AMR"), a position he has held for about a year and a half. AMR is a transportation broker for Nebraska Medicaid. Specifically AMR is a call center that takes calls from Medicaid clients to book transportation for both medical and non-medical, Medicaid paid trips. AMR earns a commission on each trip it arranges. Mr. Pirruccello's primary responsibility is making sure there is adequate transportation coverage throughout the State of Nebraska. AMR uses four types of carriers to provide service. AMR uses Commission authorized providers, government subsidized transport operations, assisted living facilities that operate their own vehicles and individual providers (friend or family). The State of Nebraska has established a rate schedule for both ambulatory service and paratransit service and no carrier can be paid more than the State established rate. Mr. Pirruccello testified that AMR had previously made use of an entity by the name of Shared Mobility for both ambulatory and paratransit service in Omaha. Shared Mobility went out of business in March of 2012.

Some of the types of trips which AMR arranges include doctor appointments, pharmacy trips, essential shopping, banking and things of that nature. AMR arranges roughly 1,500 trips a day, some of which require wheelchair assessible vehicles. AMR has trips it attempts to arrange every day for which it is unable to find a transportation provider. Trips such as hospital discharges are frequently not provided on a timely basis. There are certain areas of the state where both wheelchair accessible and ambulatory service is difficult to arrange. Sarpy County is one of the areas of the state where AMR has difficulty arranging transportation. The difficulty in arranging for transportation in Sarpy County stems from the fact that the State has an in city rate which covers certain zip codes that allows for a \$16 in city flat rate. However, the State also has a rate of \$7.65 for the first five miles and if the fare does not cross one of the established zip code areas, it is not considered an in city rate and therefore pays only \$7.65 for the first five miles. There are occasions when requests for wheelchair accessible transportation cannot be met on the day requested. AMR has utilized the service of Servant in Lincoln and is satisfied with the service provided. AMR uses the Omaha metro bus service and MOBY, which is a metro paratransit service, both of which are subsidized in some fashion by the government. These services are limited and the bus runs only on a regular route and a MOBY transport can only

deviate a short distance off the bus line. Both bus operations and MOBY paratransit services operate only on a limited schedule each day. Servant offers wheelchair accessible and ambulatory transportation 24 hours a day, seven days a week. To Mr. Pirruccello's knowledge there are no other taxi services in Nebraska operating wheelchair accessible vehicles. Mr. Pirruccello believes AMR needs additional service such as that proposed by the Applicant and if that service was made available, AMR would utilize the Applicant. AMR does annual audits of all carriers serving it to make sure they comply with all AMR standards which mirror the Department of Health and Human Services Rules and Regulations.

Jamie Chambers testified she is employed by AMR as the Transportation Network coordinator. Ms. Chambers has held the position for approximately seven months. Ms. Chambers was previously employed by Easter Seals of Nebraska where she was responsible for arranging transportation for its clientele. Ms. Chambers' responsibilities include managing the transportation network, enrolling and re-enrolling, credentialing and auditing the providers. Ms. Chambers supervises and arranges for transports on a statewide basis totaling approximately 500,000 trips annually. In response to a public records request, Ms. Chambers produced Exhibits 20, 21 and 22. Exhibit 20 is a summary of trips provided on a county basis and then broken down by zip code. Exhibit 20 lists all trips performed in May 2012. For example, in May in Douglas County, there were 11,500 van transports and 564 paratransit trips.

Exhibit 21 is a report of AMR transportation which is comprised entirely of hospital discharge trips between May 2, 2011 and June 4, 2012. In these circumstances, a client of Health and Human Services is being discharged from the hospital and requires either a wheelchair accessible transport or an ambulatory transport. The first example on Exhibit 21 demonstrates that the client spent in excess of four hours to be delivered on a trip which required only 30 minutes of transit time. On time trips are coded as "1" if the trip was considered to be on time and "0" if a trip was considered untimely. AMR calculates on time pickups as those which occur within 60 minutes of the request and timely delivery are those which do not exceed a multiple of three times the actual trip duration. For example, a ten minute ride which took 30 minutes total would be considered an on time transport. Every time a zero appears on Exhibit 21 in the far right hand column, that means the delivery or the drop off was not on time. In the course of the year, AMR arranges for approximately 11,000

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hospital discharges statewide. In the first example on Exhibit 21, the provider did not show up until four hours after the transport was requested. AMR primarily uses taxi service for hospital discharges because many of the discharges occur after regular work hours. All Omaha ambulatory discharges are included on Exhibit 21. Exhibit 21 includes both ambulatory and paratransit movements. Of the 11,048 trips depicted on Exhibit 21, 5,165 of the pickups were untimely and 7,548 of the drop offs were untimely. Approximately 70% of the hospital dismissal trips were untimely.

Exhibit 22 contains all trips between June 8, 2011 and June 6, 2012 that were cancelled due to no transport being available after AMR had exhausted all potential resources. The only cancellations included on Exhibit 22 are those for which AMR was unable to find a provider. Exhibit 22 contains van, paratransit and bus based transportation depending upon the client's qualifications. Exhibit 22 contains 4,246 cancellations on a statewide basis.

AMR has a process it follows which automatically assigns the trip to the lowest cost provider, who, based on AMR's classifications has the capacity to provide the service. If all other things are equal and if the cost is the same the trip will be awarded based on the carrier's performance score. If the performance scores from AMR's computer system are the same, the trip will be alphabetically assigned. If the trips are shown on the carrier's computer portal and are not accepted within three days of the trip, the trip is transferred to a "pending rep" who will manually call every provider in the service area until they can either secure a ride or are forced to cancel the trip. If the trip is not accepted or rejected, it is flagged by the AMR system and a phone call will be made to any carrier who possesses the requisite authority. AMR has utilized the services of Servant and its service has been timely. Servant, like other carriers, when the AMR services first were implemented often times was assigned trips beyond the scope of their authority resulting in a rejected trip. There were some glitches in the beginning regarding assignment for trips to various carriers. Servant during the last year had only one valid complaint which ranked in the top 3% of AMR's carriers it utilizes. Servant's performance score is within the top 5%. Ms. Chambers testified "they're doing very well, comparably."

There are certain areas of the state, specifically the northeast corner of Nebraska, south of Douglas County and in certain portions of western Nebraska where it is extremely

difficult to arrange rides in general and paratransit trips specifically. AMR utilizes Prince of the Road, the MOBY bus service and Papio Transportation for paratransit in the Omaha area. Prince of the Road is the only outstate paratransit provider. To Ms. Chambers' knowledge, no other taxi service other than Servant offers wheelchair accessible vehicles. Of all the trips depicted on Exhibit 22, the last three months are a much more accurate picture as the AMR selection process has been fine tuned to coincide with provider service areas. Exhibit 22 contains trips by definition that were offered to every provider who possessed the requisite authority and turned the trip down. Exhibit 22 shows that in March, 2012 there were four trips turned down in the Servant service area and 238 in the Happy Cab service area. During the month of April, there were eight turn downs in the Servant Cab area and 212 turn downs in the Happy Cab service area. During the month of May, there were 15 turn downs in the Servant service area and 269 in the Happy Cab service area. In an effort to address the difficulties in arranging for transportation in Sarpy County, AMR had discussions with authorized carriers about stationing equipment within the county. Happy Cab agreed to take trips of less than ten miles within Sarpy County and Prince of the Road will take up to two vehicle loads at any given time and will reject the remainder. After hours service continues to be a problem in the Omaha metropolitan area, as well as statewide. Although AMR is able to arrange for some trips by bus, paratransit trips cannot be more than a half mile off the regular line and starting about 4:00 in the afternoon the bus schedules run less frequently. Ms. Chambers believes that the authorization of an on demand taxi service as proposed by Servant would be beneficial, and if available, AMR would utilize that service.

There are some entries on Exhibit 21 which errantly indicate the passenger was dropped off before the trip was requested. The errant entries can be attributed to a wrong number entered by the transportation provider. Most of the rides provided by Happy Cab have been timely. Previously the AMR system had not been programmed to restrict the assignment of rides in Sarpy County to those which were less than ten miles in distance. Happy Cab currently rejects trips of greater distance than ten miles in Sarpy County. Happy Cab has requested from AMR a list of trips which were not accepted which is being prepared. Servant's audit with AMR has taken a little longer because their background checks on drivers were through the state child and family services but the delay in completing the audit is not the fault of Servant. If a provider does not

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offer the level of service such as paratransit, the provider would not be offered the trip and thus would not appear on the turn down list. Servant, unlike Happy Cab, does not restrict the trips it will take to those which are ten miles or less. AMR does not have a problem finding transportation of any kind at any time in Lincoln.

Happy Cab has been the subject of relevant complaints to AMR, the exact number of which Ms. Chambers was uncertain but she knew the complaints were approximately three pages in length for 2011. Happy Cab ranked between 7% and 10% on the chart of valid complaints and 10% is considered a valid cutoff for compliance. Happy Cab's performance score was in approximately the same range as its valid complaints. In response to a question from Mr. Pollock on cross-examination, Ms. Chambers indicated that if Happy Cab was being tendered trips which it was not authorized to provide in the last three or four months, she would like to know about it because she thought that problem was fixed. Some of the hospital discharge patients were not delivered to their destination for over 12 hours which Ms. Chambers stated is completely possible. If Happy Cab will not accept trips of longer distance than ten miles in Sarpy County, it is an economic decision by the company and not due to a restriction in its authority. Happy Cab is the only mileage specific provider that has a self-imposed restriction. In Sarpy County AMR has eight service providers who are authorized to serve the territory but only two who will.

Brad Menage testified he is the Front Office Manager at the Hampton Inn ("Hampton") LaVista, Nebraska. Mr. Menage has worked at the Hampton since October 2011 and has worked for the past nine years at hotels in the Omaha area. The Hampton has 120 rooms. Mr. Menage's responsibilities include taking care of all hotel guests, dealing with their complaints and generally addressing customer service and guest satisfaction. Mr. Menage is on the property between 50 and 60 hours each week, and he and his front desk associates are responsible for making calls for cab service for their guests.

Mr. Menage has had the opportunity to observe Happy Cab's service, both in a professional and a personal capacity. When Mr. Menage worked at the Hilton Garden Inn in west Omaha, guests were frequently overcharged by Happy Cab drivers after the flat rates were increased. The Hilton Garden Inn had been inadvertently omitted from the rate sheets posted in the cab showing flat rates. When Mr. Menage complained to Happy Cab dispatchers, he would first be asked for a cab number

and if he was unable to identify the cab, the dispatcher indicated they could be of no assistance to him. The overcharging of guests for taxi service became so frequent, it got to the point that any time a cab arrived at the hotel, the cab number was recorded by someone at the front desk. Once the cab numbers were being recorded and tracked, if there was a problem reported to dispatch, the drivers involved would return and pay back the amount that was overcharged. On some occasions when no cab number could be identified relating to the overcharge, the hotel refunded the overcharge to the guest. The hotel did not want the guest's first contact with Omaha to be a situation where they were overcharged for cab service with no remedy. Calls were frequently made to arrange for taxi service the night before the guest's scheduled airport departure the next morning. Several times no cab would show up at the previously arranged time. When Happy Cab dispatch was called, they would simply respond that there was no record of a cab having been ordered for that time. A couple of times when cabs did not show up and guests were in a time crunch to meet their plane, Mr. Menage used his personal vehicle to transport the guest to the airport. At one point, Mr. Menage began circumventing the Happy Cab dispatchers and dealt directly with a driver named Chris Barber. Mr. Barber was always on time, he would load and unload the guest's luggage, and at that time the Hilton Garden Inn had no problems.

When Mr. Menage worked at the Double Tree hotel downtown, there was an occasion where a Happy Cab driver had to be told to leave the property. The driver and the guest involved had a dispute and the driver was screaming at the guest in the lobby of the hotel where other guests were present. The following day a representative from Happy Cab stopped by the hotel premises to collect an additional amount due the driver, which the hotel paid. Mr. Menage described the driver's conduct and was told the company would take it under consideration.

The standard dispatch response for a request for service is that it will be five to 20 minutes which recently has been expanded to ten to 25 minutes. When after 25 minutes no cab has arrived, Mr. Menage has re-called Happy Cab dispatch to determine the status of the cab, which often they are unable to determine. Mr. Menage rates Happy Cab service as relates to hotel guests as average to above average.

The flat rate currently for transportation from the airport to the Hampton is \$42. Mr. Menage has been advised that if Servant's application is granted, their rates will be \$48. The

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difference in rates does not make the slightest bit of difference to Mr. Menage. People have choices and a broad range of services, and he believes selection of cab services should be similar. If the service provided by Servant met his expectations, he would utilize it for the transportation of hotel guests. He would estimate that he and his staff make ten to 12 calls per week for cab service to and from his hotel in addition to guests who call for cab service themselves.

Mr. Menage has personally made use of Happy Cab's service. On one occasion, he called Happy Cab at 1:00 a.m. from the Old Market, recognizing the bar would be closing at 2:00. The dispatcher told Mr. Menage it would be ten to 20 minutes for a cab to pick him up. His friends had left because he had made arrangements for cab service and after a half hour when he called back to Happy Cab the dispatcher told him their system was down and they were unsure when a cab would come to pick him up. At approximately 1:50 in the morning in the middle of January, Mr. Menage called back and was told it could be anywhere from two to three hours and that dispatch had no method of communicating with the drivers other than to manually call them. Not knowing at that time that the five Omaha Cab Cos. were under common ownership, Mr. Menage tried each in succession and realized he was talking to the same dispatchers. He began a seven mile walk home and during the course of his walk was able to flag down a passing cab to take him home.

On another occasion Mr. Menage was at a friend's home and had called Happy Cab for a ride home. He received a call back from the driver asking him if he was paying cash or by credit card. When he responded "credit card," the driver told him he needed to find another cab and never did arrive to pick him up. Mr. Menage then called the Happy Cab dispatcher back and told them he was paying with a credit card; dispatch told him they would send another cab out in 30 to 45 minutes. After waiting another 45 minutes, a cab arrived, picked up Mr. Menage, drove him one block, pulled over to the side of the road, and demanded that he pay \$60.00 in cash before going any further. Mr. Menage told the driver he was paying with a credit card, the driver said he could not accept a credit card; the driver unlocked the doors and asked Mr. Menage to exit the cab. At that point, Mr. Menage called Happy Cab dispatch, placed the call on speaker phone, and when the driver heard he was actually talking to someone at Happy Cab dispatch, he agreed to take the trip with payment by credit card.

Within two weeks prior to the hearing, Mr. Menage called for a cab from a friend's house in the Benson area and was told it would take two hours to get a cab at 1:55 in the morning. On the weekend prior, Mr. Menage called for a cab in the Benson area and was told it would be ten to 25 minutes. Mr. Menage sat on the front porch of the house for the entire 25 minutes and when he called back to Happy Cab to inquire about the status of his cab, he was told that he was a no show, meaning the cab came but Mr. Menage did not appear. He advised the dispatcher he could not have been a no show as he was sitting on the front porch the entire time and that in fact it was the Happy Cab driver that was a no show. He inquired why the driver could not call him and if dispatch knew which cab number was supposed to have picked him up. Dispatch could not respond to either inquiry. He then requested another cab and was told cab no. 480 would come to pick him up in ten to 20 minutes. When no cab arrived after 20 minutes, he called back to the dispatch office and spoke with "James" who informed him that cab no. 480 was somewhere in west Omaha and would not be able to pick him up. Dispatch then told Mr. Menage it would be another 10 to 20 minutes before a cab could pick him up. When asked what consequences there were for the driver who claimed that he was a no show, dispatch told him they did not have a cab number who was assigned to that pickup, so there was no way they could do anything about it. He ultimately obtained transportation from another occupant of the house who had just returned home.

On some occasions when taking Happy Cab, Mr. Menage has had to roll the window down because of the driver's hygiene. On other occasions, he has ridden in the vehicle when it smelled of smoke while at the same time knowing that there is a no smoking policy for passengers. On several occasions, Mr. Menage has ridden with a driver who spoke on his phone while driving at the same time. Based on his personal experience, Mr. Menage believes that the general public would be better served by a competitive taxi market. Mr. Menage did not report these incidents to the Happy Cab driver relations manager because he had on prior occasions left messages for someone at Happy Cab named "Ron" who had not returned his call. Mr. Menage has not reported his problems with Happy Cab to the Commission.

It was Mr. Menage's understanding that most of the complaints regarding service in Lincoln were from bar owners. While Mr. Menage would be concerned if Servant customers were waiting for two hours after promising a 15 or 20 minute pickup, Mr. Menage indicated a \$6.00 disparity in the cost of transportation from the airport to his hotel would not be of the

slightest concern to him. When Mr. Menage did use taxi service in Lincoln, one of the gentlemen riding with him remarked he "wished it were this easy to get a cab in Omaha."

PROTESTANTS' EVIDENCE

Armadillo Express a/k/a RailCrew Xpress

At Mr. Felton's request, the Commission took administrative notice of its rules and regulations, specifically, Title 291, Chapters 1 and 3. Mr. John Bickerstaff testified he is the Vice President of RailCrew Xpress ("RailCrew"), headquartered in Lenexa, Kansas. Mr. Bickerstaff's responsibilities include corporate development and client relations. Mr. Bickerstaff has been involved in the transportation of railroad train crews for the past ten years. Exhibit 23 which is a copy of Brown's Crew Car authority was entered in evidence as was Exhibit 24 which is an order approving the acquisition of Brown's Crew Car by RailCrew. RailCrew transports Union Pacific Railway and BNSF train crews throughout Nebraska. Essentially, RailCrew moves locomotive crews to and from trains as needed. All requests for movement of the crews are done electronically pursuant to contracts with both BNSF and Union Pacific. The contracts require 95% on time performance and in Nebraska RailCrew is very close to 100% on time performance. Exhibit 25 is a list of the vehicles RailCrew currently has stationed in Nebraska. Safety is an extremely high priority for the railroads. GPS units are mounted in all vehicles to locate the proximity of the company vehicles to the train and to provide data on pickup and delivery of crews. The cost of train delays is expensive, and therefore timely operation in the transportation of its crews is important. The vehicles are inspected by the driver before each trip and by each new driver who takes on the equipment. Additional inspections are conducted once monthly by management in conjunction with railroad representatives. RailCrew drivers are drug and alcohol screened and background checks are performed. Drivers are trained in safe driving and use of the safety equipment on board the vehicles. Demand for railroad train crew transportation in Nebraska is on the decline, primarily because Nebraska is a coal route, and the use of coal is down as much as 30 or 40% since January 2012. Mr. Bickerstaff does not believe there is need for any additional railroad train crew transportation in Nebraska. RailCrew does not transport Amtrak crews in Nebraska. RailCrew does not have any competitors in train crew transportation in Nebraska. Although Supp. 3 of Exhibit 23 authorizes the transportation of

passengers and their baggage, RailCrew does not transport any passengers other than rail crews.

Happy Cab

Mr. Pollock requested the Commission take administrative notice of the record from the hearing on April 9, 10 and 11, 2012, in the consolidated hearing on the matter of Applications B-1121, Supp. 6; B-1122, Supp. 6; B-1215, Supp. 4; B-1410, Supp. 1; and B-1744, Supp. 1. Mr. Pollock further requested the Commission take administrative notice of TR-180 and TR-190 which are the rate applications for the Omaha Cab Cos. in Omaha and Lincoln respectively. Administrative notice was taken of all three items.

Lori Mitchell testified Happy Cab had made a request for information to AMR relating to rejected rides. Ms. Mitchell requested the information because she stated "we don't reject any runs that are sent to us." When AMR began sending trips to Happy Cab, they input every trip for a \$16 minimum. If trips were a shorter distance and the meter rate was less than \$16, Happy Cab would be required to charge the meter rate. If the destination of a trip is modified, for example, from UNMC to Lakeside Hospital, and a new order must be issued, the initial order is considered a rejected trip. Ms. Mitchell indicated that lots of times Happy Cab is still being offered trips between locations such as point to point in Plattsmouth which they are not allowed to take. However, based on the subsequent testimony of Mr. Davis, Plattsmouth is within the service territory which Happy Cab is authorized to serve. Ms. Mitchell testified that "never once have we received that phone call from AMR." While on the one hand, Ms. Mitchell testified that none of the dispatchers at Happy Cab had ever received a call from AMR for service, later in her testimony, Ms. Mitchell indicated that in the last two weeks she spoke with a Happy Cab dispatch manager who stated "we're getting, you know, all of them covered that they call us for." Ms. Mitchell testified she could not require a driver to take trips in Sarpy County which were lower than the company's meter rates which in essence would be subsidizing transportation in that area. Currently, when Happy Cab vehicles travel six miles, they reach the \$16 in town rate, but they are currently accepting trips up to a ten mile limit at that same intercity rate, which the drivers are not happy about. The decision to limit transports for AMR's clientele in Sarpy County to ten miles was a financial decision not based on Happy Cab's authority. Ms. Mitchell believes that Servant observes a similar ten mile limit but her only knowledge of that is what

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she was told in November or December of 2011. Ms. Mitchell interpreted Happy Cab's authority that it could only perform a trip which originates or ends in Omaha. Ms. Mitchell testified that some of the trips on Exhibit 22 were not offered to Happy Cab because they were not able to accept them because they were for a wheelchair customer. Happy Cab currently stations 10 to 15% of its fleet in Sarpy County. Exhibits 26 through 30 representing all five Happy Cab authorities were admitted into evidence. While Ms. Mitchell testified that Happy Cab had never received a call for wheelchair accessible transportation, witness Laudenklos later testified that they had received referrals from Happy Cab for wheelchair-bound passengers.

Protestant Happy Cab next called Ron Reynolds, who was employed for five years as a Happy Cab driver and has been employed for the last three years as the Driver Coordinator for Happy Cab. As driver coordinator, Mr. Reynolds handles complaints from customers and complaints from drivers. Mr. Reynolds meets with motels and bars to identify any problems, assists in setting up cab stands, and assuring there are sufficient drivers on the street. Cab stands are locations where a driver can go and sit and wait for an order. The nightly cab stands are not routinely manned, but during the College World Series and Berkshire Hathaway meeting, concerts and other events, the cab stands are manned and the drivers also drive up and down the streets of the Old Market area and can be flagged down by passengers. Mr. Reynolds first met Mr. Costello at the Double Tree in January when Mr. Costello had requested the hotel have a direct billing arrangement. Initially, representatives of the Double Tree would require a cab driver to complete the trip from the hotel to the airport, and then return to be paid. With direct billing, vouchers are provided to the hotel front desk, which in turn provides the vouchers to the hotel customers. Mr. Reynolds and Mr. Costello also discussed and agreed upon the establishment of a cab stand on the Double Tree property. Mr. Reynolds believes establishment of the cab stand benefits the Double Tree because they can simply look out the window and see that the cab stand is occupied and it benefits the company by providing easy access to the Interstate or other downtown locations. Prior to the establishment of the cab stand, Mr. Reynolds had heard concerns about service to the Double Tree from Happy Cab dispatchers. Mr. Reynolds was told that the wait was longer than five to 20 minutes promised by the dispatchers. Mr. Reynolds testified he has met with Mr. Costello several times since the cab stand was established, and Mr. Costello has never identified any problems other than a single instance of an overcharge where a cab driver charged the

passenger \$24.50 for a one-way trip to the airport which should have cost \$12.25. Mr. Reynolds has heard no other complaints from Mr. Costello or other members of the Double Tree staff since the establishment of the cab stand. Happy Cab has flat rates between all motels and hotels on the one hand and Eppley Airport on the other. The flat rates do not include any charge for use of a credit card. The flat rates were revised last year. Spot checks were done at several hotels and Mr. Harrison advised Mr. Reynolds to take the most direct route and the meter was turned on to confirm the distance and the rate. According to Mr. Reynolds, trips from Omaha to LaVista were established on a meter basis because LaVista is a suburb of Omaha. Happy Cab has always used the in-town rate for trips between LaVista and Omaha. The flat rates were set according to Mr. Harrison's supervision and direction.

On cross-examination, Mr. Reynolds indicated the drivers are instructed not to deviate from the flat rates but acknowledged that they do. The types of complaints Mr. Reynolds receives involve drivers speeding, cutting off other drivers, talking on a cell phone, driver rudeness, and drivers not loading groceries. Mr. Reynolds has not received any complaints about appearance of the vehicles but he has received complaints about the appearance of the drivers. Company rules do not allow drivers to talk on their cell phones and Mr. Reynolds indicated texting while driving is illegal. Mr. Reynolds retained a record of the complaints he received which was submitted as late filed Exhibit 31. There is no timeline for the complaints received by Mr. Reynolds as shown on late filed Exhibit 31. However, Exhibit 31 appears to show total complaints in the following categories: no show (65); late pickup (32); rude (21); reckless driving (45); overcharge (6); stolen order (5); refusing orders (12); fast logging (4); on phone (11); other (5); and texting (3).

Mr. Reynolds also receives complaints from drivers regarding passengers urinating in the cabs, passengers who have vomited in the cabs, passengers who have bled in the cab, and passengers who ran off and did not pay the fare. Mr. Reynolds does not believe there is any longer wait for cab service during peak bar time hours. Mr. Reynolds indicated there is a limited amount of corrective action he can take toward the drivers and he is restricted from telling them where to go because they are independent contractors. Mr. Reynolds was aware of a circumstance where a driver was asked to leave the Double Tree premises in 2012 because of the driver's conduct.

On cross-examination, Mr. Reynolds testified that because of the additional distance required to exit the airport, flat rates have been adjusted so they do not accurately reflect the actual mileage distance but do reflect an average. According to Mr. Reynolds, the out-of-town rate applies to anything that is not a suburb of Omaha. Mr. Reynolds does not recall having received any request for wheelchair transportation from passengers whose wheelchairs could not be folded up and put in the trunk of the cab.

John Davis testified he is Director of Operations for Happy Cab. Mr. Davis has been employed by Happy Cab for six years. Mr. Davis' responsibilities include the day-to-day operations of the three Happy Cab Cos., operational support for Cornhusker and Safeway companies, including supervision of dispatch personnel, fleet management, cashiering, accounts receivable, and virtually all aspects of the operations, including drivers Happy Cab contracts with 182 drivers, all of whom are independent contractors. Happy Cab owns 215 to 220 vehicles. Happy Cab requires that each of its vehicles be inspected monthly, at which time the mechanical aspects of the vehicles are inspected as are the documents inclusive of the drivers I.D. Happy Cab is in compliance with the PSC's safety and insurance regulations. Mr. Davis testified Exhibit 12 is a Commission order dated June 5, 2002, constituting a waiver allowing Servant to operate minivans as taxicabs. Exhibit 33 is a Commission order dated January 26, 1993, authorizing Happy Cab to utilize minivans as taxicabs. Mr. Davis did not interpret Exhibit 33 as authorizing Happy Cab to operate wheelchair accessible vehicles. Mr. Davis testified Happy Cab does not get requests for transportation of wheelchair bound passengers and if they did, they would refer it to someone else with that authority such as Prince of the Road. Happy Cab has the ability to augment its fleet. Happy Cab routinely rotates two newer vehicles in each month for each of the five authorities as other vehicles are retired or taken out of service. The companies collectively add one to two new independent contractors each week to replace attrition and meet additional demand. Mr. Davis does not believe there is a demand for additional taxi service in Omaha. Mr. Davis is not aware that Mr. Reynolds kept records of complaints he received. Those records were not retained at Mr. Davis' direction.

Over the past two years, Happy Cab has undertaken actions to improve service in the Old Market after being advised by the Commission of complaints during the bar closing rush hours on Thursday, Friday and Saturday. Happy Cab essentially made the entire Old Market area an open cab stand. Customers could

simply flag down a cab or go to one of the cab stand locations and obtain cab service. The plan in the Old Market seems to be working well and the company established a similar arrangement at Midtown Crossings. Cab stands have been established at the CenturyLink Hilton, at the CenturyLink Center and for the College World Series. Generally, those are manned only during those events. Mr. Davis is concerned that if Servant is authorized to provide cab service in Omaha, the company will be taking a piece of the pie that currently goes to Happy Cab. He is also concerned that with a different cab company in town, there would be confusion over which company was involved in the event of overcharges or poor service. Mr. Davis is concerned about Servant's ability to provide service in Omaha because of the number of people who testified in Lincoln in support of Happy Cab's application there.

None of the five Omaha Cab Cos. operate wheelchair accessible vehicles. Mr. Davis believes wheelchair bound customers should have the same transportation opportunity including on demand service as other customers. There are no taxi services in Omaha offering wheelchair accessible on demand service. Mr. Davis did not know the service capabilities of either Prince of the Road or Papio Transportation to provide same day, on demand wheelchair accessible service. In response to the question of whether Mr. Davis agreed with Ms. Mitchell's characterization that Happy Cab could not transport passengers between two points in Plattsmouth, Mr. Davis testified that he did not agree with Ms. Mitchell's statement. If Happy Cab got a request for service between two points in Cass County, the company would try to meet that request. Happy Cab cannot transport passengers between points in the other 87 counties of Nebraska.

Mr. Davis testified in Happy Cab's application to serve Lincoln in 2012, and he is familiar with LB 889 which sought to eliminate the public convenience and necessity standard in the Lincoln and Omaha taxi markets. Prior to receiving authority to serve Lincoln, Mr. Davis initially testified Valor Transportation could transport passengers between Omaha and Lincoln. However, since Valor's authority was limited to transportation of passengers and their baggage "in the City of Omaha and vicinity," Mr. Davis testified he did not believe the City Charter would interpret Lincoln as within the vicinity of Omaha. Mr. Davis testified that if a customer engages Happy Cab's service within their service area, he believes they are authorized then to go outside of their service area at the request of the customer. Mr. Davis went on to testify that if a

passenger was picked up in Omaha and the passenger requested service to Scottsbluff, Happy Cab would be authorized to provide such service. Although the service territories authorized for Valor and Don Mark are different than those of Happy Cab, drivers were not given any different instructions with regard to their authorized service area. Mr. Davis agreed that prior to the Lincoln authority being granted, Don Mark could not transport a passenger from Cass County to Washington County even though Happy Cab drivers could. Mr. Davis is unsure whether drivers were ever advised as to the limitation on the Don Mark authority. Mr. Davis acknowledged that under their current system, even though trips are flagged at 18 minutes, a potential late pickup still exists. Mr. Davis opined that it was not possible that a cab could be a no show for a request for service. However, Mr. Davis had not seen Exhibit 31 at the time of his testimony. Mr. Davis did not know Mr. Reynolds kept records of complaints. If Mr. Davis receives complaints from a customer, he does not retain them. Mr. Davis could not recall the details of the citations issued to the drivers identified on the last page of Exhibit 11, but he believes they may have been related to overcharge of customers. Two of the three drivers receiving the citation on Exhibit 11 still drive for the company.

Exhibits 34 through 38 were orders issued by the Commission involving violations of not having driver I.D.s displayed in the vehicles and operating a taxicab with the meter unsealed. Specifically, Checker Cab had 8 I.D. violations and 8 meter violations; Valor had 10 I.D. violations and 16 meter violations; Cornhusker had 15 I.D. violations and 24 meter violations; Happy Cab had 15 I.D. violations and 17 meter violations, for a combined total of 57 I.D. violations and 87 meter violations. All of the orders involving the above Formal Complaints were entered in December 2010. No further formal complaints have been received by Happy Cab.

In Happy Cab's application to serve Lincoln, Mr. Davis testified that when a meter became unsealed for whatever reason, Happy Cab would notify the PSC and at some future date, usually a matter of days, the meter would be inspected and sealed by a PSC representative. Mr. Davis testified that previously the vehicles were operated with unsealed meters. Mr. Davis did not recall Mr. Breiner, Director of the Motor Transportation Department at the Public Service Commission, testifying at the Happy Cab hearings in Lincoln, that the vehicles were to be taken out of service until the meters could be sealed. However, since the hearing in March, 2012, Happy Cab has not changed its

procedure and continues to operate vehicles on an interim basis with unsealed meters.

Happy Cab competes with City Taxi who operates two vehicles. Mr. Davis also opined that the Council Bluffs taxi companies are operating illegally in Omaha, which he has reported to the PSC on a number of occasions. Mr. Davis admitted that in the Happy Cab Lincoln applications, his prepared testimony stated "we have competition in Omaha already, it affects our business, sure, but has it damaged or harmed or impaired our business, no." City Cab's operations have not damaged, harmed or impaired Happy Cab's business but Mr. Davis believes it could if more cabs were added to City Taxi's fleet. Mr. Davis is concerned that the experience of Servant in the taxi business poses a greater threat to Happy Cab; however, he is unsure why someone would pay a higher fare to Servant for the same service as that which Happy Cab provides. He believes Servant has the opportunity to be able to put vehicles in service and hurt Happy Cab's business during peak demands at bar time, when price is not relevant. Mr. Davis acknowledged that during special events such as the College World Series, Happy Cab's response time can be longer. Because the Happy Cab drivers are independent contractors, they cannot be required to put their vehicles on the street at any given time. Mr. Davis believes that with 50,000 travelers in the City of Omaha, the response times of Happy Cab are only approximately five minutes later as a matter of routine. Mr. Davis could not explain nor could he imagine a situation where Happy Cab dispatchers did not answer the phone. In response to a question about when Happy Cab's "time and mileage" charge began, Mr. Davis stated that if the cab was in dead stop traffic for over five minutes, that rate would apply, although it is not written down anywhere nor described in the tariff.

Happy Cab does not currently have a protest pending to the Casino Taxi application because the PSC website showed the protest period ended on June 7, 2012, which is the date Mr. Davis filed Happy Cab's protest. Mr. Davis later found out the protest deadline expired on June 6, 2012. After reviewing Exhibit 33, Mr. Davis testified he did not believe it authorized Happy Cab to transport wheelchair bound passengers. However, as evidenced on Exhibit 17, Happy Cab entered into an agreement with Transport Plus not to transport wheelchair bound passengers under a similar authority description for Lincoln. Exhibit 17 indicates that Happy Cab will have authority to transport passengers requiring vehicles that are specifically equipped to accommodate wheelchairs as of March 1, 2017. Mr. Davis does not

believe the current Happy Cab authority authorizes wheelchair accessible transportation. However, on further cross-examination, Mr. Davis agreed that the current authorities held by Happy Cab authorized the transportation of "passengers and baggage" and that wheelchair bound individuals are "passengers." Both Valor and Cornhusker operate minivans even though Exhibit 33 does not mention either of those entities as being a party to the waiver.

On redirect, Mr. Davis testified there is no explanation on Exhibit 22 why any trip might have been declined by Happy Cab. Mr. Davis further testified that all administrative fines levied had been paid and that Happy Cab was in compliance with the complaint orders in Exhibits 34 through 38. During his redirect, Mr. Davis testified that if his recollection of Mr. Breiner's testimony was not accurate, he would be willing to discuss the matter and asked that company management be allowed to seal cab meters in the future. Mr. Davis believes that City Taxi is operating throughout the city but he did not have any evidence or documentation of such activity. Mr. Davis testified the time and mileage charge has no application to flat rate trips between hotels and the airport but would apply if the passenger wants to make a stop or a deviation from the most direct route.

Prince of the Road

Mr. Pollock asked the Commission to take administrative notice of the operating authorities of Prince of the Road held under the name of either Camelot Transportation or Triumph Transportation. Mr. Shultz objected on the basis that no protest was filed by either of those two entities and it was inappropriate to allow those companies to essentially provide evidence as a protestant. The Hearing Officer noted the objection, and administrative notice was taken of the authorities and a ruling was made that Mr. Laudenklos of Prince of the Road would be allowed to testify in this proceeding.

James Laudenklos testified he is the CEO and President of Prince of the Road Transportation ("Prince"), and he began his employment with Prince in 2008 and became the CEO and President in 2009. Mr. Laudenklos' responsibilities include oversight of the entire operation and financial base of the company. Two companies utilize the name Prince of the Road, one is Camelot Transportation and the other is Triumph Transportation, both of which hold authority issued by the Commission. Camelot and Triumph purchased the Prince authorities from R & F Hobbies in

November, 2011. Collectively, the two entities operate 61 vehicles and employ 72 drivers and 16 additional non-driver employees. The companies operate statewide in Nebraska excluding Lancaster County. An application has been filed with the Commission to serve Lancaster County and is presently pending. Prince operates nine wheelchair accessible vehicles, six of which are stationed in Omaha, and the remaining three are located outstate. Prince plans to expand service in Omaha for any increase in demand. Prince has a contract with AMR to serve clientele of the Nebraska Department of Health and Human Services. Less than 4% of Prince's wheelchair traffic is private pay on demand service. The majority of the service is provided to AMR. In outstate Nebraska, the private pay on demand requests are less than 2% of Prince's wheelchair accessible traffic. Prince provides approximately 60 wheelchair accessible rides in Omaha on an average day and about 7 to 12 in rural Nebraska. Mr. Laudenklos said that Prince had, on occasion, turned down wheelchair traffic in Omaha due to overbooking but he could not give a specific number of occasions. Approximately one month before the hearing, Mr. Laudenklos performed an analysis of his reports and determined another wheelchair van was needed.

Prince is a defendant in a lawsuit brought by the League of Human Dignity. The basis of the claim was that Prince does not provide wheelchair service, which Mr. Laudenklos stated is absolutely incorrect. Mr. Laudenklos had his counsel prepare and send a letter to the League of Human Dignity elaborating on the number of wheelchair accessible vehicles Prince operates and confirming that his company does, in fact, provide that service. Approximately 14% of his overall business is wheelchair accessible transportation.

On cross-examination, Mr. Laudenklos acknowledged that Prince did not protest this application and that it routinely did protest applications which conflicted with its authority. No protest in this case was filed due to a lack of financial funds. AMR places orders up to 72 hours in advance, and all of the trips scheduled by Prince on the day of the hearing were prescheduled runs. If a wheelchair bound customer called for same day service, Prince would perform the service if it had the capacity. Mr. Laudenklos believes that 68% of the time, he could probably arrange to have Prince make a same day transport. Mr. Laudenklos stated Prince has received referrals from Happy Cab for wheelchair transportation. A higher capacity and a higher efficiency raise a carrier's ratings with AMR, which in turn causes them to be assigned more trips. Mr. Laudenklos

testified his company scored a 98% rating with AMR, which he states is number 1 in the state. Prince operates 24/7 with a live dispatch person until 7:00 in the evening, at which time calls rollover to a pager. Approximately 90% of Prince's wheelchair bound passengers pre-arrange their transportation. Prince charges \$33 for wheelchair transport in the metro Omaha area. Prince has 25 non-wheelchair accessible vehicles stationed in Omaha. If Prince were requested to make a wheelchair transport from a bar at closing time, the customer would call the pager, someone would call them back, and a driver would be called into service to make the pickup. Prince's standard rate for such service is \$33. The driver would be paid \$6.50, as is routinely the case, and an additional \$20 for an after hour's call, so in the bar transport example, \$26.50 of the \$33 would be paid to the driver. For every three ambulatory transports Prince turns down, it only turns down one wheelchair accessible transport. Mr. Laudenklos does not believe there is a need for on demand wheelchair accessible transportation.

Great Plains Services / High Plains Cab Services

Marlan Dooley testified he is the owner of Great Plains Services and High Plains Cab Services ("Great Plains"). Mr. Dooley stated he did not care if competitors dropped off passengers in western Nebraska, but he would like to see the application restricted so that passengers could not be transported from western Nebraska to the eastern part of the state. Specifically, Mr. Dooley requested that the application be restricted on a north/south line at Kearney so that any trips originating west of Kearney could not be transported to points east of Kearney. Mr. Dooley testified that Great Plains is an open class carrier that is authorized to transport passengers within the six county area served by Happy Cab, but that it has never performed that transportation and has no intention of doing so. Mr. Dooley acknowledged that if the present application had a restriction against traffic point to point or originating where an existing taxi service is authorized, he would not have a problem. Mr. Dooley testified his companies were a Protestant to Happy Cab's application to serve Lancaster County and no restriction was imposed prohibiting transportation of passengers from west of Kearney to points in Lancaster County. Neither of Mr. Dooley's companies operate wheelchair accessible vehicles. Exhibit 31 is the authority held in Certificate B-1575 for Golden Plains Services LLC d/b/a High Plains Cab Service. Mr. Dooley agreed the certificate granted to Happy Cab in its application to serve Lancaster County reads as follows: "Transportation of passengers by taxi in Lancaster

County, and between points in Lancaster County on the one hand, and on the other hand, points in Nebraska."

PUBLIC COMMENT WITNESSES

Michael Patterson representing Siebert Mobility testified his company recently opened an office in the Omaha area. Siebert Mobility has over 30 years experience serving the disabled community with the purpose of making disabled individuals mobile so as to give them the freedom of independence, the ability to move about the community, and providing them the flexibility and freedom of choice to go and do as they please. Mr. Patterson believes that for those disabled individuals that do not have their own vehicle, they are at the mercy of public transportation. Public transportation is limited in terms of specific routes and specific hours which do not match the needs of the disabled population. The utilization of a medical transport is too expensive and is the equivalent of traveling in an ambulance each time a disabled member of the public wants to go to a restaurant for dinner. The cost is prohibitive. Mr. Patterson has clients who require dialysis treatments three times a week, and they have told him the transport costs for their dialysis treatments can be as high as \$60.00 each direction. Some of those costs are borne by insurance coverage but many are not. He believes that each individual regardless of their specific physical capabilities has the right to choose what and when they want to do. If a client wants to go to the theater, they must currently schedule the trip so that it concludes before 10:00 o'clock when public transportation is no longer available. The only alternative is to take hospital type ambulance transportation, which is not necessary. Many of his clients are capable of being transported in any wheelchair accessible vehicle, and they should have a taxi service available to choose if they so desire.

Byron Johnson drove a cab for Happy Cab for seven of the last nine years. During his time at Happy Cab, four of his five children were born and he paid lease payments in each of the weeks in which they were born even though he did not really drive the cab. Some people within the Happy Cab organization had told him they are just a leasing company. He is in favor of somebody who is willing to come in and try to make a difference in the way the cab company is run for the public and for cab drivers.

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Michael Ngrime testified he worked at Happy Cab from 2006 to 2008. When he signed his contract with Happy Cab, he asked for a copy which got him in trouble with the company. He paid somewhere between \$700 and a \$1,000 to maintain a bond. If you left the company for any reason, it was difficult to get the bond money back. When drivers challenged the company in small claims court, the company always took them to county court. Generally the drivers just gave up and forfeited their bond. He had an accident in October, 2008, for which he did not receive a ticket and for which there was no damage to any property or the taxi. The next day his contract was terminated. The basis of the termination was that he was driving drunk. However, the police gave him a breathalyzer test which did not show he had been drinking. When he tried to get a job with other companies, he was told that Happy Cab said terrible things about him. He would welcome the opportunity to work for another cab company should it come to town. He does not believe there should be a monopoly in the Omaha taxicab market.

Mamadou Faye testified he worked for Happy Cab from 2008 to 2011. After his wife had a baby, he asked to work part time and pay a part-time fee, which Happy Cab refused. When he left he went through all the proper channels to get his bond back and he believes Happy Cab still owes him \$600. Omaha is a growing city and has more millionaires than New York (per capita). He believes that a company that lives up to their responsibilities, and has good cars and good customer service, deserves an opportunity in the marketplace to compete for taxi service. He thinks other companies should be added to the Omaha market.

Amanda Vazquez appeared on behalf of the Great Plains Chapter of Paralyzed Veterans of America. She is supporting Servant's application to expand taxi service to the Omaha metropolitan area. Wheelchair accessible transportation is extremely limited in the Omaha area and is at the top of the list of barriers for disabled individuals. Wheelchair accessible transportation is not easily obtained, because of geographical restrictions, hours of service restrictions, advance requests, costs and unreliability concerns. The limitations she identified impact a disabled individual's ability for employment or for a simple task such as to go to the store. Having wheelchair accessible taxis would open the door for many activities that have previously been off limits or too restrictive. For citizens without disabilities, there are many options, but for citizens who are bound to their wheelchairs, the proposed service would provide a freedom that currently does not exist in Omaha. Ms. Vazquez commends the Applicant for its

efforts to provide citizens with disabilities another means of accessible transportation and urges the Commission to grant the application.

Terrie Jackson Miller is the Executive Director of the North Omaha Neighborhood Alliance which is an organization that serves as an umbrella for neighborhood associations. The Alliance represents roughly 52 neighborhood associations in the six target zip codes of north Omaha. Ms. Jackson Miller appeared in support of Servant's application. There are many people in north Omaha who do not have jobs simply because they do not have transportation. Bus service is limited and residents of north Omaha must, on many occasions, travel outside of north Omaha to go to work. There is no public transportation in the evening for those who are seeking or working nighttime jobs. There are many cab drivers who will not come to north Omaha to transport passengers. Several people have to rely on non-licensed taxi service, which is dangerous, and she supports any transportation that will come into north Omaha and transport the people who live there.

Carl Christian is the President of the North Omaha Neighborhood Alliance. The North Omaha Neighborhood Alliance is 100% in support of Servant's application for many of the reasons mentioned by Ms. Jackson Miller. Mr. Christian's personal experience has shown him that senior citizen homes in north Omaha have difficulty arranging transportation for such minor things as trips to Walgreens or even to church. For those north Omaha citizens who require wheelchair accessible transportation, the problem is even more severe.

Yasin Mohamed is a former Happy Cab driver. Mr. Mohamed testified Happy Cab drivers have no rights at all and they can be fired at any time. He believes Omaha is growing and it needs competition which would bring more jobs to the city.

Paul Mullen is the Executive Director of Metropolitan Area Planning Agency. Mr. Mullen testified the agency serves five counties in the metropolitan area, three of which are in Nebraska. They are responsible for various programs, one of which is transportation. For several years, Metropolitan Area Planning Agency has been working to find various ways to coordinate transportation for people with disabilities, those who are under-employed, unemployed and its senior citizens. Mr. Mullen stated that most often taxi services are used as a backup because they operate longer hours and can respond with same day service. Anything that would enlarge taxi service in the metro

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area would be welcome. Wheelchair transportation is not readily available as a backup service. Mr. Mullen stated that Metropolitan Area Planning Agency leases its offices from Metro Transit, who sent a letter (Exhibit 44) also supporting the application for the approval of additional taxi services in Omaha. Mr. Mullen urged the Commission to approve the proposal for additional taxi service.

Don Daly testified he has lived in various communities where there have been wheelchair accessible taxis available and unavailable. Mr. Daly believes on demand taxi service is something for everybody and something that should be available to the general public whether they are disabled or not. He believes a grant of the application would present an opportunity to those people who cannot otherwise take advantage of on demand taxi service to live their daily lives.

Greg Mazzuca works at the Embassy Suites Downtown where he is responsible for front desk and valet services. He has been in his present position seven years and has had an opportunity to see transportation needs. He believes there is an obvious need for an additional company to provide taxi service. The fact that the proposed service is ADA compatible only enhances Mr. Mazzuca's support. He believes Omaha citizens wait too long for their taxi service. An additional service would only enhance transportation in Omaha.

Micke Masker represents two entities that advocate for the needs of persons with disabilities. First, Mr. Masker is on the Mayor's Advisory Board for Citizens with Disabilities. He is also the operations director of the therapy department at Alegent Health Immanuel Rehabilitation Center. He believes many members of the disabled population of Omaha are forced to rely on forms of transportation that are unreliable which results in them being underserved. Both of the organizations Mr. Masker represents support the application and believe it would fill a void that currently exists.

Thomas Duffy has driven a cab for Happy Cab off and on for 15 years. After 15 years, he was diagnosed with some medical problems that made him an instant diabetic. Happy Cab requires its drivers to take DOT physicals, while drivers in Chicago and Des Moines are not required to take such physicals. An individual cannot pass a DOT physical if you are an insulin-taking diabetic. He has driven wards of the State of Nebraska and for Casino Cab, neither of which required him to take a DOT physical. When he drove for Happy Cab, he was supposed to be an

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independent contractor, but when he came to work, they told you who to pick up, so you really were not an independent contractor. He believes he is medically qualified to drive a cab, but was told by Happy Cab that their insurance company would not allow him to drive for them. He would like to return to driving a cab but has no other options.

Rebecca Mumm appeared on behalf of the Marriott Courtyard Downtown in support of Servant's application. The City of Omaha wishes to market itself and bring in bigger events, which means a greater need for cab service. She believes more cabs will contribute to a safer community, but when intoxicated people wait for an hour or hour and a half for a cab, many ultimately decide to go ahead and drive. If it were easier to get a cab in Omaha, more people would take them. She favors competition in the taxi industry. Additionally, she recognizes that ADA compliance is important not just in Omaha but the entire state. She is in full support of another cab company coming to Omaha because she believes the city needs it.

Bruce Froendt is a citizen of the City of Omaha and supports Servant's application. Servant would provide greater accessibility options that would allow individuals that have wheelchairs to be transported around the city in a cab versus an emergency vehicle or lift van. He travels a great deal and these options are available in a number of other cities. For example, Las Vegas is a model city where many wheelchair accessible vans operate. One need not preplan in order to gain access to a wheelchair accessible van in Las Vegas. In some cities, you have to plan well in advance arranging the time, date, where, when and all the details versus an on-call cab service that would allow people who cannot transfer from their chair into a seat to arrange a cab on demand. Mr. Froendt uses a wheelchair and even the hearing room where he testified creates some obstacles that other people do not encounter.

Paul Curley testified he is the Director of Sales and Marketing for the Magnolia Hotel in downtown Omaha. Mr. Curley supports Servant Cab's application because when the city encounters major events, cab delays can be up to 40 minutes. He believes the city needs another taxi company. His hotel is required to be ADA compliant for his guests that have special requirements; he believes transportation services offered to them should also be ADA compliant.

Mary Angus testified she is appearing on behalf of ADAPT Nebraska, which is a disability advocacy group. The acronym

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"ADAPT" originally stood for Americans with Disabilities for Accessible Public Transportation, but the group's focus now encompasses a variety of additional factors. Ms. Angus also testified that she is one of the people on the mayor's commission and on the subcommittee for transportation. Ms. Angus is wheelchair bound and she believes disabled individuals are entitled to equal access to transportation. She testified it is a humiliating experience to show up at a restaurant in an ambulance. It is her understanding that Happy Cab mentioned that they had never received a call requesting wheelchair accessible cabs. She believes they do not receive calls because everyone knows they do not have wheelchair accessible cabs. Ms. Angus believes it is her right to equal access and to limit people with disabilities to move around town, to go to restaurants, to movies, to a friend's home, is not right. She believes there is potential legal liability in not having a wheelchair accessible cab company in Omaha and urges the Commission to grant Servant's application.

Kathy Hoell testified she is a disabled individual and she has personally asked Happy Cab about wheelchair accessible cabs in Omaha. Ms. Hoell stated people will not call Happy Cab because they know the answer will be "no," there are no wheelchair accessible cabs. Further, Happy Cab representatives told her they would never get wheelchair accessible cabs which she believes is a violation of the ADA. As a national advocate for the disabled, she personally tried to secure the Region VII convention for Omaha. The majority of the people at the conference would be people with disabilities, so ADA accessibility was important. However, Omaha did not host the convention because it did not have wheelchair accessible transportation. The host city has to have the capability for people in wheelchairs to get from the airport to their hotel. Kansas City had that capability. When she came to Nebraska, she had to learn how to drive because there was no meaningful accessible transportation. As an example of a success story, Ms. Hoell had a friend who lived in Lincoln who is wheelchair bound and used Servant's service on a regular basis. Ms. Hoell's friend liked to play in poker tournaments, and because of Servant's wheelchair accessible service, he was able to do so. She is concerned that in greater Nebraska there is no accessible transportation for people with disabilities. She believes we are keeping business away from Nebraska because we do not offer wheelchair accessible cabs.

Craig Horobik testified he has been a driver for Cornhusker Cab for over five years. He is appearing in opposition to

Servant's application. He believes separate permits leads to confusion and will cause companies to bend the rules to try to get a competitive edge. He also is concerned that the PSC has recently granted a permit to City Cab and he believes it could lead to a rotating basis for other cab companies to enter the market and allow fly by night companies to come and get authorization which might only lead to crumbs left over for companies like his. He believes his company is professional and they do a good job and that smaller companies ruin that image.

Chris Barber has worked for the Happy Cab Cos. for 21 years as a driver. Mr. Barber testified the owners have introduced technology and efficiency since purchasing the company. He believes the company now has better cars and he believes the company's customers are currently satisfied and the drivers are making a decent living. Competition between the independent contractors is stiff. He believes Happy Cab's fleet is the right size and drivers can currently make a decent living. He wants to see Happy Cab grow because the more money it makes, the more money he will make. Mr. Barber's concern is: if Servant cannot take care of Lincoln, how is it going to take care of Omaha? He does not see any room for another taxi service.

OPINION AND FINDINGS

In this case Applicant is seeking to extend its current authority in Nebraska intrastate commerce by the transportation of passengers and their baggage by taxicab between points in Nebraska over irregular routes as a common carrier. Restriction: The transportation of passengers and their baggage by taxicab originating from or point to point within any territory where a taxicab holds a certificate or permit except Douglas, Sarpy and Washington Counties is not authorized. The application also seeks HHS authority.

Applications for common carrier authority are governed by NEB. REV. STAT. § 75-311 (2010), which provides,

A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application if 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

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convenience and necessity. Otherwise the application shall be denied.

The Commission must apply a two-part test. The first part of the test is that the Commission must determine if an applicant is "fit, willing and able to perform the service proposed." The second part of the test is that the proposed service "is or will be required by the present or future public convenience and necessity."

In order to be successful, an applicant must prove that it is fit, willing and able to provide the proposed service. From the evidence considered, the Commission finds that the Applicant has not shown the ability to properly perform the proposed service. The Commission makes this finding upon the examination of the record in this proceeding as well as the proceedings held in Dockets B-1121 (Happy Cab d/b/a Yellow Cab), B-1122 (Happy Cab d/b/a Yellow Cab), B-1215 (Happy Cab d/b/a Happy Cab), B-1410 (DonMark, Inc., d/b/a Cornhusker Cab), and B-1744 (Valor Transportation) regarding the Omaha Cab Cos. applications to operate a taxi service in Lancaster County.

In this proceeding, the Commission finds that the evidence provided by the Applicant is insufficient to demonstrate its ability to provide the service proposed. The Applicant did not offer any specific business plans for the proposed operations in greater Nebraska as well as the railroad train crew transportation portion of the proposal. While there was some evidence that there was a plan prepared for Omaha, there was an insufficient showing of how the Applicant would be able to expand its operations in light of the situation in Lincoln as discussed below.

The Commission, upon the request of the Protestants and with no objection from the Applicant, took administrative notice of the earlier proceedings set forth above. In those proceedings, wherein the Omaha Cab Cos. applied to operate in Lincoln, it was shown to the Commission that the Applicant, which has held authority in the Lancaster County area since 2002, had been inadequately meeting the needs of the general public in Lancaster County. Testimony was received from public officials including the Mayor and a city councilman of Lincoln, a state official from the Nebraska Liquor Control Commission, numerous business organizations and the general public concerning the level of service in Lincoln and Lancaster County. This testimony was essentially unanimous that the service

provided by the Applicant in Lincoln was inadequate and did not meet the demands of the city for transportation.

The testimony was also such that the service provided was inadequate not only at peak times such as football games and bar closing times, but also during other parts of the day as well. Numerous individuals testified as to the long waits or even failure to provide service throughout the day.

Even Kirby Young testified that his company, at least at times, was not able to meet the demands in Lincoln, although he stated that these times were at the "peak times" and that, in general, he believed that he was meeting the demands of Lincoln.

The testimony further showed that the problems in Lincoln were not a recent development, but had been occurring for an extended period of time. The Applicant had been informed of issues by numerous organizations over the past few years, and had chances to improve its performance in Lincoln. However, according to the testimony provided, any improvements realized were for a short period of time and did not last. This evidence further buttresses the Commission's finding that the Applicant is not able to perform the proposed operation.

The record before us shows that the Applicant was unable to meet the known demands of the Lincoln market. This, coupled with the lack of a showing of the ability of the Applicant to meet needs statewide when it was not able to meet the needs in its certificated area, causes us to find that the Applicant is unable to perform the services set forth in the application, and that the application should be denied for these reasons.

The Commission is aware that there are issues statewide regarding transportation, particularly in the area of wheelchair transportation. The Commission would invite companies to apply to secure authority in order to meet these needs. This does not change the essential finding, however, that in this application the burden of proof to show that the Applicant is able to provide the service proposed has not been met.

The Commission declines to enter a finding on the second part of the two part test as we have found that the application failed the first part of the test and thus should be denied.

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ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the above-captioned application filed by Servant Cab Inc., d/b/a Yellow Cab and Capitol Cab, is hereby denied as provided herein.

MADE AND ENTERED at Lincoln, Nebraska this 21st day of August, 2012.

NEBRASKA PUBLIC SERVICE COMMISSION

Commissioners Concurring:

Tim Schram

Aune Boyle

Gerald L. Vop

//s// Rod Johnson

Chairman

Rod Johnson

ATTEST:

Miss K. J.
Executive Director