

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application ) APPLICATION NO. B-1590  
of Alford Oil Company dba )  
Embassy Limo, Omaha, Nebraska, )  
seeking to acquire, through )  
transfer, the authority as a ) GRANTED AS MODIFIED  
common carrier granted to )  
Embassy Limousine, Inc., in )  
Certificate B-1392. ) Entered: October 29, 2002

Appearances:

For the Applicant:  
Geoffrey Hall  
PO Box 216  
Blair, NE 68008

For Protestant Omaha Limousine:  
Patrick Sullivan  
1246 Golden Gate Drive  
Suite 1  
Papillion, NE 68046

For the Commission:  
Laura Davenport  
300 The Atrium  
1200 N Street  
Lincoln, NE 68508

BY THE COMMISSION:

By application filed July 5, 2002, Alford Oil Company, Inc. dba Embassy Limo (Alford Oil), seeks to transfer the authority granted to Embassy Limousine, Inc., (Embassy) in Certificate B-1392, which provides:

Passengers and their baggage by luxury sedan limousines between points in Washington, Sarpy, Douglas and Cass counties. Supp. 1: Passengers and their baggage by luxury sedan, limousine, and passenger vans between points in Nebraska. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. The use of rate meters is not authorized.

Notice of this application was published in the Daily Record July 9, 2002.

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Applicant sought temporary operating authority, which was granted on July 23, 2002, for a period of 90 days, pursuant to Neb. Rev. Stat. § 75-319.

By amendment noted at hearing and subsequently filed on October 21, 2002, Alford Oil seeks to further restrict said authority as follows:

RESTRICTION: The transportation of clients of the Department of Health and Human Services is not authorized.

Protests were timely filed on behalf of Omaha Limousine, inc., by and through its attorney Patrick Sullivan; Richard Dinovo; Joe Higgins; and Prince of the Road, by and through its attorney John Boehm. The protest of Omaha Limousine was subsequently withdrawn.

A hearing was held in this matter on October 10, 2002, at 10:00 am in the Commission Hearing Room, Lincoln, Nebraska.

E V I D E N C E

Mr. Bill Alford testified first on behalf of the applicant. Mr. Alford is a shareholder of Alford Oil, and has been the president of the company for 15 years. The limousine service portion of the company would be under Alford Oil, Inc. Mr. Alford testified that he entered into a purchase agreement with Embassy Limousine for purchase of the authority. Mr. Alford testified that he would be responsible for the management and operation of the limousine company he seeks to acquire. He testified that during the time that Alford Oil held temporary operating authority, it has purchased new vehicles. The company currently has six vehicles total. Alford Oil has provided service to the public, and has had most of its vehicles booked on weekends.

Mr. Alford further testified that protestant Joe Higgins was formerly employed by Alford Oil, and that the company owes Mr. Higgins money that it is willing to repay. Mr. Alford stated that Mr. Higgins has keys and a cell phone belonging to the company, and that Mr. Alford has requested that said property be returned. He further testified that a dispute regarding payment of the cell phone bill exists. He stated that he has had difficulty contacting Mr. Higgins to attempt to resolve these issues, but is willing to work toward resolution.

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Exhibit 2, the application of Alford Oil, shows that Alford Oil has a net worth of \$426,965.

Mr. Gary Vecchio testified next on behalf of the applicant. Mr. Vecchio is the current owner of Embassy, and seeks to complete the sale of his company to Alford Oil. He testified that he would serve as a consultant to Alford Oil for a period of 48 months after the transfer was completed. He further testified that while under temporary authority, Alford Oil has operated its business honestly and in a safe and law-abiding manner.

Upon questioning by Commission counsel, Mr. Vecchio testified that he is aware of an outstanding complaint by a person named Darrell Rutherford for refund of payment for a ride arranged by Embassy. Mr. Vecchio testified that he would repay Mr. Rutherford upon receipt of copies of a cancelled check from Mr. Rutherford.

Mr. Joe Higgins testified as a protestant. Mr. Higgins was a manager for Embassy, and driver for Alford Oil after it obtained temporary operating authority. Mr. Higgins testified that he and other employees are owed money from Embassy and Alford Oil. Mr. Higgins testified that he is holding some of Alford Oil's property that needs to be returned, and that he is willing to return the items.

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

Transfer of a certificate of public convenience and necessity and other properties of a regulated motor carrier is governed by Neb. Rev. Stat. § 75-318. After notice and hearing:

If...the commission finds that the transaction proposed will be consistent with the public interest and does not unduly restrict competition and that the applicant is fit, willing, and able to properly perform the proposed service, it may enter an order approving and authorizing such consolidation, merger, purchase, lease, operating contract, or acquisition of control of the properties, or any part thereof, or certificates or permits of the whole, or any part thereof, upon such terms and conditions as it deems just and reasonable.

Thus, there are two factors that the Commission must consider in its analysis: (1) whether the proposed transaction is consistent with the public interest and does not unduly

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restrict competition; and (2) whether the applicant is fit to properly perform the proposed service.

The Commission finds that the proposed transaction is consistent with the public interest. The evidence shows that Alford Oil will provide adequate service to the public consistent with the statutes and rules and regulations governing regulated passenger carriers. Furthermore, the transaction does not unduly restrict competition. Alford Oil was not in the limousine business prior to the proposed transfer, and the Commission has no reason to believe that the transfer would have a negative impact on competition in the limousine market in the proposed service area.

The Commission further finds that the applicant is fit, willing, and able to properly perform the proposed service. The applicant presented credible evidence as to both the fitness of his character, financial fitness and fitness of his business acumen. He presented knowledge of the industry and Commission requirements. Although Mr. Higgins testified that he is owed money from Embassy Limousine and Alford Oil, the evidence is unclear in this regard, as it appears Mr. Higgins is retaining property of Alford Oil. Thus, such evidence does not cause the Commission to find Alford Oil unfit.

Finally, the Commission finds that the authority of the transferor, Certificate B-1392, should be cancelled as required by Neb. Rev. Stat. § 75-318.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1590 be, and it is hereby, granted; and that upon compliance with the terms and conditions set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Alford Oil Company, Inc., dba Embassy Limo, in Application B-1590, authorizing the operations set forth in the foregoing findings; and that to avoid a lapse of authority, the Certificate of Public Convenience and Necessity issued in Application B-1392, shall be revoked and cancelled simultaneously with the issuance of a Certificate of Public Convenience and Necessity in Application B-1590.

IT IS FURTHER ORDERED that applicant shall not be issued the Certificate of Public Convenience and Necessity authorized by the Commission unless and until applicant has fully complied, within a reasonable time from the effective date of this Order, with Neb. Rev. Stat. sections 75-305 (fees), 75-307 (insurance),

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and 75-308 (rates)(Reissue 1996), and with the rules and regulations of the Commission, and if upon expiration of such time applicant has not complied with such terms and conditions, this Order shall, after reasonable notice to applicant, be of no further force and effect.



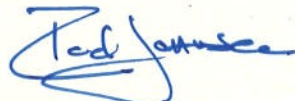
IT IS FURTHER ORDERED that applicant shall not conduct operations until a Certificate of Public Convenience and Necessity is issued.

IT IS FURTHER ORDERED that the operations authorized herein shall be subject to the terms, conditions, and limitations which have been, or may hereafter be prescribed by the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 29th day of October, 2002.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

//s//Anne C. Boyle



Chair

ATTEST:



Executive Director