

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) APPLICATION NO. B-1683
of CUSA ES, LLC, Bismarck,)
North Dakota, seeking to acquire,)
through transfer, the authority) GRANTED AND CERTIFICATE
granted to Powder River) B-1453 REVOKED
Transportation Services,)
Gillette, Wyoming, in)
Certificate B-1453.)
ENTERED: JUNE 27, 2006

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed February 22, 2006, CUSA ES, LLC, Bismarck, North Dakota, hereinafter referred to as applicant, seeks to acquire, through transfer, the authority granted to Powder River Transportation Services, Inc., in Certificate B-1453.

Notice of the application was published in the Daily Record, Omaha, Nebraska, on April 4, 2006, pursuant to the rules of the Commission.

Because no protests were filed, Application B-1684 was processed pursuant to Rule 018.03 of the rules of procedure of the Commission.

This application is intended to transfer Certificate No. B-1453 from one subsidiary of KBUS Holdings, LLC (KBUS), CUSA PRTS, LLC, to another, CUSA ES, LLC. A special circumstance exists in this application regarding a preexisting transfer of the authority from Coach USA to KBUS Holdings, LLC.

In June of 2003, KBUS Holdings, LLC, applied to the Surface Transportation Board for authority to transfer Powder River Transportation Service, Inc. This authority was authorized to be transferred to KBUS Holdings, LLC, by the Surface Transportation Board on September 3, 2003. The Commission was notified of the transfer by the Board, but no application was made to the Commission to transfer the authority at the state level.

The Commission finds that the applicant KBUS Holdings, LLC should have applied to the Commission concurrently with the Surface Transportation Board application. The Commission will rely upon the approval of the transfer to Powder River to KBUS Holdings in this matter.

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A further issue is the restriction that was placed on the Certificate by the Court of Appeals in 2000 in Case Number A-98-899. This order restricted the authority granted by the Commission to the transportation of passengers and their baggage between Alliance and Ravenna, and points between Alliance and Ravenna, and to transport crews originating in Ravenna east to Lincoln. The Commission finds that the authority transferred in this matter should be granted subject to this restriction. The Commission also finds that the Petition for Informal Intervention and an Application for an Order Directing Ministerial Act are moot as the certificate issued in this order is to be restricted pursuant to the Court of Appeals order.

After due consideration of the evidence and being fully advised in the premises, the Commission is of the opinion and finds:

1. Applicant is fit, willing, and able properly to perform the proposed service, and to conform to the provisions of Neb. Rev. Stat., sections 75-301 to 75-322.04, (Reissue 2003), and the requirements, rules and regulations of the Commission thereunder.
2. The proposed intrastate service will be consistent with the public interest and will not unduly restrict competition.
3. The certificate issued in Application B-1453 is not dormant.
4. A certificate should be issued in Application B-1683 authorizing the following operations:

CERTIFICATE AUTHORIZED

COMMON: Transportation of passengers and their baggage between Alliance and Ravenna, and points between Alliance and Ravenna, and to Lincoln from Ravenna for passengers and their baggage originating in Ravenna.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1684 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 CUSA ES, LLC, Bismarck, North Dakota, in Application B-1683 authorizing the operations set forth in the

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foregoing findings; and that to avoid a lapse of authority, the Certificate of Public Convenience and Necessity issued in Application B-1453, shall be revoked and canceled simultaneously with the issuance of a Certificate of Public Convenience and Necessity in Application B-1683.

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), and 75-308 (rates) (Reissue 2003), 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 27th day of June, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Donald J. Uy

Anne C. Boyle

Lowell C. Johnson

//s// Lowell C. Johnson
//s// Frank E. Landis

Lowell C. Johnson
Chairman

ATTEST:

John Burvick
Deputy Director