

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Petition	)	Application No. B-1829/
for Declaratory Order of Golden	)	DR-0006
Plains Services, Inc. seeking a	)	
determination of the	)	ORDER FINDING QUESTION
transportation services which	)	OF STATEWIDE COMMERCIAL
may be provided by open class	)	IMPORTANCE
carriers as defined by Neb.	)	
Admin. Code, Title 291, Chap. 3,	)	
§010.01C.	)	Entered: April 19, 2016

BY THE COMMISSION:

On March 11, 2016, Golden Plains Services, Inc. (GPS), filed a petition seeking a declaratory ruling to determine what services may be provided by open class carriers as defined by Commission Rule 010.01C.

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

The conduct of declaratory ruling proceedings is governed by the Administrative Procedures Act<sup>1</sup> and applicable Commission rules and regulations.<sup>2</sup>

Any person may petition an agency for a declaratory order as to the applicability to specified circumstances of a statute, rule, regulation, or order within the primary jurisdiction of the agency. An agency shall issue a declaratory order in response to a petition for that order unless the agency determines that issuance of the order under the circumstances would be contrary to a rule or regulation adopted in accordance with subsection (2) of this section..."<sup>3</sup>

Each agency is required to issue rules and regulations that "describe the classes of circumstances in which the agency will not issue a declaratory order and be consistent with the public interest and with the general policy of the Administrative Procedure Act to facilitate and encourage agency issuance of reliable advice."<sup>4</sup>

<sup>1</sup> Neb. Rev. Stat. § 84-901, et seq. (Reissue 2008).

<sup>2</sup> Neb. Admin. Code, Title 291, Chap. 1 (1992).

<sup>3</sup> § 84-912.01(1).

<sup>4</sup> § 84-912.01(2).

Pursuant to Commission rules and regulations regarding the issuance of declaratory rulings, "if a petition for declaratory ruling presents a question of statewide commercial importance or such is noted during or after hearing on the petition, the Commission shall not issue a declaratory ruling but will resolve such question in an investigative proceeding."<sup>5</sup>

In its Petition, GPS seeks a declaratory ruling to determine what transportation services may be provided by open class carriers as defined under Commission Rule 010.01C. Specifically, GPS is seeking clarification as to what authority prevents GPS, as an open class carrier, from operating like a taxi in any capacity, including but not limited to picking up passengers which hail down open class drivers to pick up the passenger at a location which was not prearranged. Such a determination, on its face, affects all open class carriers within the state. As such, the Commission finds that GPS's petition presents a question of statewide commercial concern which must be resolved through an investigative proceeding instead of a declaratory ruling. Therefore, the Commission will open an investigative proceeding concurrent with the entry of this order to address the questions raised by the Petition.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that since the petition for declaratory ruling on its face presents a question of statewide commercial importance, a statewide investigation shall be opened to address the issues contained in the Petition.

IT IS FURTHER ORDERED that no declaratory ruling shall be issued and this docket shall be, and it is hereby closed.

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<sup>5</sup> Neb. Admin. Code, Title 291, Chap. 1 § 019.05 (1992).

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 19<sup>th</sup>  
day of April, 2016.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s//Frank E. Landis  
//s//Crystal Rhoades  
//s//Tim Schram



Chairman

ATTEST:



Deputy Director