

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of Golden Plains) APPLICATION NO. B-1829
Transportation Services, Inc.,) SUPPLEMENT 1
d/b/a GPS Transportation,)
Lincoln, Nebraska, seeking to)
expand its authority as a common)
carrier of passengers by vans by)
the removal of its restriction)
against point-to-point)
transportation in Lancaster) GRANTED
County, and by the amendment of)
language related to the use of)
sedans by an open class carrier)
in an area where a taxi)
authority is operating. The)
transportation of railroad train)
crews and their baggage is not) ENTERED: JUNE 2, 2015
authorized. HHS Designation:)
Yes.)

APPEARANCES

For the Applicant:

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For the Protestants:

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BY THE COMMISSION:

BACKGROUND

By application filed July 16, 2014, Golden Plains Services Transportation, Inc. d/b/a GPS of Lincoln, Nebraska ("Applicant")

or "GPS"), seeks authority from the Nebraska Public Service Commission ("PSC" or "Commission") to operate as a common carrier in Nebraska intrastate commerce in the transportation of passengers in open class service. Applicant seeks to remove the following restriction from its authority: "The transportation of passengers and their baggage point-to-point in Lancaster County is not authorized." Applicant also seeks to amend its current authority as follows: "The transportation services of passengers and their baggage by sedan or station wagon originating from or point-to-point within any territory where a taxicab company holds a certificate or permit is not authorized" to: "The transportation services of passengers and their baggage by sedan and station wagon originating from or point to point within any territory where a single taxicab holds a certificate or permit is not authorized." Notice of the application was published in the *Daily Record*, Omaha, Nebraska, on July 30, 2014. 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 (collectively "the Omaha Cab Cos."), through their attorney, Andrew Pollock; Transport Plus of Lincoln, Nebraska, also filed a timely protest.

A planning conference was scheduled and conducted on October 1, 2014, and a Planning Conference Order and Notice of Hearing was entered on October 7, 2014, setting the matter for hearing on November 24 and 25, 2014. Protestants Omaha Cab Companies filed a Motion to Continue the hearing on November 14, 2014. On November 20, 2014, the Commission entered an order continuing the hearing scheduled for November 24 and 25, 2014. On December 2, 2014, the Commission issued a Notice of Public Hearing setting the application for hearing on January 14 and 15, 2015. By Motion dated December 9, 2014, the Applicant requested that the hearing scheduled for January 14 and 15, 2015, be continued to a future date. The Commission subsequently granted the Motion to Continue the Hearing to a date to be determined on December 16, 2014. A second planning conference was conducted on December 15, 2014, for which an order was entered on December 22, 2014, setting the hearing date for March 3 and 4, 2015. On January 6, 2015, the Commission issued a Notice of Hearing on this matter for March 4 and 5, 2015. On January 23, 2015, Applicant filed a Motion in Limine seeking to prohibit Protestants from utilizing various documents either produced by the Protestants or in their possession which were obtained through the IntelliRide portal. Said Motion in

Limine was granted by Commission Order entered on February 24, 2015. A Motion to Strike filed by the Applicant requesting the paragraphs 3 and 4 of the letter filed by the Protestant Transport Plus was granted on May 27, 2015. A hearing on the application was held on March 4 and 5, 2015, in the Commission Hearing Room in Lincoln.

APPLICANT'S EVIDENCE

Mr. Kirby Young testified first for the Applicant. Mr. Young is the sole owner and officer of Golden Plains Transportation Services, LLC ("GPS"). He is the person responsible for the day-to-day management of GPS. GPS currently operates statewide except for the areas it is restricted against.

Mr. Young testified that GPS is seeking to remove the restrictions against transportation point-to-point in Lancaster County in the current authority of GPS as well as the removal of vehicle restrictions except in areas that are served by a single taxi authority.

Mr. Young reviewed a balance sheet that set forth the financial status of GPS. Mr. Young said that GPS has been in operation for over two years.

Mr. Young stated that GPS intends to offer its services in Lancaster County if the restriction is removed and will charge the same rates that it currently has on file and approved with the Commission. GPS currently offers transportation to the general public and the Nebraska Department of Health and Human Services ("DHHS").

Mr. Young testified that he is seeking a removal of the restriction against transportation in Lancaster County due to the need for his service in that county.

Mr. Young reviewed the equipment list of GPS, which includes one or two wheelchair vans as well as minivans and one sedan. GPS has an in-house mechanic who provides routine servicing on the vehicles.

The Applicant performs background checks and drug testing on the new drivers. GPS provides training for its new drivers, including Drug and Alcohol Awareness training, safety courses and customer service training. The training also includes

reviewing of Commission Rules and Regulations and additional ride-along training.

According to Mr. Young, GPS currently abides by all Commission Rules and Regulations. It has proper insurance on file with the Commission as required by Commission rules.

Mr. Young testified that there are some open class providers in Lancaster County. Transport Plus provides open class service, as well as Madonna Rehabilitation and Midwest Special Services. Mr. Young noted that Transport Plus did cease operations for about an eight month period in 2014, but that it has returned to providing service. A review of the Omaha Cab companies authorities shows that they do not hold open class authority.

GPS could provide additional services in Lancaster County if granted by the Commission, said Mr. Young. The service that an open class company can provide are different from that provided by a taxi company, and are better suited to some of the demands of the market. An open class provider can schedule a ride and control the trip, which is not possible for a taxi provider. GPS would also be available to provide additional services in Lancaster County in the event that a provider closed down as happened in 2014.

On examination by Commissioner Tim Schram, Mr. Young said that most of the service provided would not be by wheelchair van. Lincoln appears to have a shortage of vehicles as compared to Omaha, according to Mr. Young. He estimated that GPS would put twenty vehicles into service if allowed by the Commission.

Mr. Young stated that the removal of the restrictions would allow GPS the ability to take some scheduled trips from Servant Cab. He said that this would help alleviate some issues for both companies. It would also help them to address times where the demand exceeds the available number of vehicles. There are times when Servant Cab receives essentially no advance warning from Intelliride of an increased number of trips that they will provide the next day. The addition of GPS' ability to provide service would help during these times.

On cross-examination by Tara Paulson, Mr. Young acknowledged that he has an ownership and management interest in both GPS and Servant Cab.

On examination by Commissioner Frank Landis, Mr. Young said that the Lancaster County public would benefit by the removal of the restrictions in that there would be more vehicles available for service. This would provide for more efficient service with less delays and late service for the public. Mr. Young said that if there are more companies providing services then there is more capacity available for times when some providers may cease operations as recently occurred with Transport Plus.

The next witness for the Applicant was Mike Schafer. Mr. Schafer is the Chief Executive Officer of the League of Human Dignity. He has been in that position for thirty-six years. The League advocates for the needs and provides services to individuals with disabilities.

Many of the clients of the League are dependent upon public transportation, including services such as that provided by GPS. For many of those individuals it is their sole means of transportation. The League also offers an extended-hours service program that runs at night after StarTran has closed its services. Any person who is eligible to ride with StarTran, and also blind individuals, are eligible for the extended-hours program. This program is currently being operated through Servant Cab. It is going to receive some additional funding that will allow it to offer seventy trips per week, up from the current number of thirty-five. The program had used Transport Plus, but when it temporarily closed, Servant Cab took over as the provider.

Mr. Schafer said he believed that the addition of an open class carrier would provide an additional option for his clientele. Currently there is only Servant Cab, Transport Plus, and Madonna Rehabilitation. Madonna at this time only operates for medical appointments. To his knowledge, the Omaha cab companies do not operate wheelchair accessible vehicles in Lancaster County.

On examination by Commissioner Schram, Mr. Schafer said that StarTran does not operate during the evenings or on Sunday. He also has heard from staff that the League does receive calls from people who are not able to find transportation.

On redirect, Mr. Schafer said he is in favor of the granting of the extension of the authority to Lancaster County. He said that the League would use the services of GPS if it was granted by the Commission.

Jamie Chambers was called next by the Applicant. She is the Program Compliance Manager for IntelliRide. IntelliRide is the Nebraska non-emergency transportation broker for the Nebraska Department of Health and Human Services (HHS). IntelliRide has been the broker for HHS since May 1, 2014. It arranges transportation requests of compliant HHS people with compliant providers.

Ms. Chambers testified that there is a need for the transportation of HHS clients every day in Lancaster County.

Ms. Chambers stated that she is familiar with Transport Plus. When they suspended operations in 2014, this created additional needs in Lancaster County. IntelliRide currently primarily uses Transport Plus, Servant Cab, Madonna Rehabilitation and Midwest Special Services in Lancaster County. These carriers do not provide all the services needed by IntelliRide in Lancaster County. Transport Plus has a limited authority, Madonna primarily transports to hospitals, and Midwest is limited by the number of vans available. IntelliRide did use the Omaha cab companies for a period of time, but currently is not.

GPS currently provides open class in the Omaha market as well as statewide. They provide both ambulatory and wheelchair transportation on a daily basis. Ms. Chambers said that IntelliRide is satisfied with the service that GPS provides. She said that GPS is in the top three performing providers on the basis of on-time performance, total on-board time, rejection rate and complaint rate.

Ms. Chambers said that virtually all providers have declined service at some time due to several factors. She believes that there is a need for the proposed expansion of service by GPS into Lancaster County, that it would benefit IntelliRide and its clients if it were granted, and that IntelliRide would utilize GPS services in Lancaster County.

IntelliRide keeps records on transportation providers, including vehicle information, vehicle capacity, driver name, driver license expiration dates, service areas, rates, a scoring performance matrix, and all communications to and from providers. IntelliRide also keeps records of complaints, on-time performance, points of origin, points of destination, and

essentially any other record for its business-oriented activities.

Ms. Chambers explained that a Public Records Request to HHS begins when HHS reviews the record request, advises IntelliRide what information to prepare, redacts certain information, and then the response is then reviewed before it is sent out by HHS. Information provided to the Omaha Cab Cos. in their HHS Public Records Request did not include any complaints or on-time statistics for GPS. HHS advised Ms. Chambers that they were sending the request for paid claims report, which is what Ms. Chambers then provided to HHS. Commissioner Crystal Rhoades requested that a late filed Ex. 13 become a part of the record based on whatever response was received by the Omaha Cab Cos. to a subsequent Public Records Request of HHS by the Omaha Cab Cos.

HHS provides a preference to carriers who utilize the IntelliRide tablet, and if the application were granted, GPS would receive trip referrals before other providers that were not on the IntelliRide tablet system. Tablets are leased from IntelliRide at rates between \$145.00 and \$160.00 per month per tablet. It has not been IntelliRide's experience that the provider who provides the largest number of trips necessarily has the highest number of late calls or unfulfilled calls. IntelliRide has not been discouraged in any fashion from using GPS based on the number of complaints about their service.

The brokerage program rules are set by HHS Nebraska Medicaid and not IntelliRide. IntelliRide as the broker cannot override its obligation to select the lowest cost mode of transportation simply because a client calls and requests a different carrier or different mode of transportation. IntelliRide's purpose is to assure HHS is compliant with the Medicaid rules in order to pass the federal Medicaid audits. The use of the tablet system offers providers more efficient scheduling the opportunity to make changes, rewrite the requests, and exercise their rights and responsibilities as business owners. Ms. Chambers was concerned that the testimony from the prior day had indicated that trips simply disappear from the tablets. In reality, a trip disappears off the tablet after the tablet beeps and turns red for 45 seconds to alert the driver that the client has cancelled the appointment at which time IntelliRide would not expect the driver to pursue a cancelled appointment. Even the drivers that utilize the tablets have a variety of options available to them in the operation of the business. IntelliRide does its best to program as much of

everyone's certificate of authority into its computer system as it can, but ultimately the burden does rest with the provider to know their business, i.e., their certificate. For safety purposes, the tablets cannot be accessed by the driver while the vehicle is moving or until ten seconds after the vehicle stops.

A carrier's compliance score is measured by the rules of the program and identified in the rules and regulations and is not based on feeling but on data driven decisions. IntelliRide does not investigate complaints about vehicles as that is not its responsibility, but they will report vehicle complaints to the PSC. When a client of HHS complains to IntelliRide, they are asked if they would like to file a complaint formally so that a record can be made, and at that time the complainant can either agree that the complaint is recorded over the phone or not. The clients are also asked if they would like a call back regarding their complaint, and if so, at what number. IntelliRide does not take responsibility for complaints lightly. If a complaint is received about reckless driving or speeding, the tablet's GPS location maps can be searched and other information is available. Providers are asked to respond to recorded formal complaints within 24 hours, and those are kept on file by IntelliRide. Some complaints for tableted providers can be validated or invalidated based on the GPS information including such things as the time the driver arrived and whether the driver waited the required ten minutes before departing in the event of a passenger no show situation.

PROTESTANTS' EVIDENCE

John Davis testified for the protestants. He is the Director of Operations for all five of the Omaha Cab Cos. Mr. Davis testified that his companies have an application (Airport Transportation) which has not been heard, and it would not make sense to argue against a need in the present case. Mr. Davis believes there is a need for the service proposed in the Airport Transportation case pending before the Commission, and he did not think it proper to say there was no need for service in this case and then testify in a later hearing that there was a need. It is Happy Cab's position that it is not contesting need in this application. It was Mr. Davis' understanding that the Airport Transportation application would authorize point-to-point service in Lancaster County; it was subsequently seen that it does not. Regardless of the authority which the Airport Transportation application seeks, the Omaha Cab Cos. are not contesting the need issue in this proceeding.

The Omaha Cab Cos. are protesting the application as to the fitness of the Applicant. The Omaha Cab Cos. are challenging the fitness of GPS based on the current service produced by GPS and question whether they can adequately serve an expanded market in the Lancaster County area.

Dave Brauer from Transport Plus testified next. He is the owner of Transport Plus, and has been since October of 2014. Under prior ownership, Transport Plus suspended its operation for a period of six months. Mr. Brauer reopened Transport Plus in November of 2014 with four vans, and has subsequently added two more vans in service. He believes that he can make changes in the operations of Transport Plus that will allow it to succeed. He said he has not seen the need for a twenty-four hour service because the company currently receives most of its trips through IntelliRide and usually there are none at night. Mr. Brauer further said that he does not intend to operate as a taxi company. Transport Plus has an application pending in another docket that it is attempting to resolve some potential ambiguities in its certificate.

Mr. Brauer stated that his company does not use the IntelliRide tablets. He said that the main reason they do not use the tablets are the loss of control over the schedule of the drivers as well as the cost of the tablets, which can run between \$145 and \$160 per month per tablet. Mr. Brauer said that it is his understanding that tableted providers get a priority over non-tableted providers regarding referrals for trips. He said that it is a business decision for Transport Plus to not use the tablets. Mr. Brauer said that his company is not afraid of competing with GPS. He also stated that Transport Plus could handle additional traffic.

Michelle Stone was called next by the protestants. Ms. Stone has used transportation through HHS, including transportation arranged by IntelliRide. She said that she rides with GPS once or twice per month. She stated that the rides are usually fine, but that on two instances she experienced inappropriate behavior. In one instance the GPS driver talked with her about sex which made Ms. Stone uncomfortable. In a second instance, the GPS driver was driving at an excessive rate of speed and kept changing lanes. The driver was also playing with the vehicles GPS system. Ms. Stone advised the driver that this behavior was making her frightened and the driver stopped her actions. These instances were apparently reported to

IntelliRide but not to GPS. Ms. Stone stated that she ultimately received a contact from Mr. Kirby Young regarding some of her problems with Servant Cab after she talked to another driver about her problems. She did not say what if any solutions to the problems were made for her.

Ms. Stone also testified as to problems with lateness of GPS. She said that she has been late and missed appointments on a number of occasions due to this lateness.

Ms. Stone was asked if she believed that another carrier should be approved in Lancaster County, and she said that she thinks something needs to be done.

Mike Davis testified next. He is employed by StarTran as their Transportation Manager. StarTran provides transportation services to the general public including fixed route services which are open to the general public and handivan services which are available to those who are eligible for door-to-door paratransit type service. StarTran's handivan service is a door-to-door service for those deemed eligible either through disability or other means and are unable to access other services. Individuals that utilize the StarTran handivan services are physically and/or mentally disabled. The handivan service operates Monday through Saturday from 6:00 a.m. to 6:30 p.m. StarTran currently has a contract with Servant Cab for services to supplement the StarTran.

OPINION AND FINDINGS

In this particular case, Applicant is seeking to extend its current authority in intrastate commerce by the removal of the restriction against point-to-point transportation in Lancaster, and the amendment to the restriction against the use of sedan or station wagons within any territory where a taxicab company holds a certificate or permit. The Applicant is requesting that this restriction be amended to restrict its open class authority to vans within any area where a single taxicab company holds a certificate or permit.

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 convenience and necessity. Otherwise the application shall be denied.

In other words, 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 presented, the Commission finds that the Applicant has sufficiently proven it is fit, willing and able to properly perform the proposed service and able to conform to Neb. Rev. Stat. § 75-301 et seq. The Applicant is a currently certificated holder of authority in Nebraska. It has held authority for over two years. The Applicant has provided continuous service over this time period in its geographic area. The Applicant appears to have sufficient finances to operate the proposed service. The Applicant has proper insurance on file with the Commission. It has adequate vehicle availability and the ability to service the vehicles.

Based upon the evidence before us and adduced from the record in the instant case, the Commission finds that the Applicant has met the fitness test of Neb. Rev. Stat. §75-311.

The Commission is greatly concerned about some serious service issues which were set forth in Late Filed Exhibit 13. Late Filed Exhibit 13 was received after the conclusion of testimony and was not available to the Commission for examination during this hearing. Late Filed Exhibit 13 lists specific allegations of unacceptable actions by certain employees of the Applicant reported to Intelliride by clients of HHS. Intelliride found that approximately 30 instances were valid. The allegations are serious. The Commission's

Transportation Department will investigate these allegations. The Commission's investigation will include what steps were taken by the Applicant to address the complaints listed in Late Filed Exhibit 13. The investigation will also examine what should be done so that these problems do not reoccur.

The Commission encourages cooperation between HHS, Intelliride and the Transportation Department to develop a communication pathway to ensure a more timely response to consumer complaints in the future.

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

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

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

The issue of whether an Applicant has met its burden of demonstrating that the proposed service is consistent with public convenience and necessity is ordinarily a factual issue. *Id.*

The first part of the test is whether the proposed operation will serve a useful purpose responsive to a public demand or need. Given the record before us, we find that the Applicant has demonstrated a sufficient level of need and necessity to support a grant of the application. The Commission received testimony from Michael Schafer from the League of Human Dignity and from Jamie Chambers of IntelliRide regarding the need for the proposed service. Mr. Schafer testified that there is not enough wheelchair service for the clients of his organization. The League has been providing thirty-five trips per week but recently received an additional grant and now will

be able to offer seventy trips per week. Mr. Schafer stated that he believes an additional open class provider would be a benefit to the League's clientele.

Jamie Chambers of IntelliRide also testified regarding a need for the proposed service. Ms. Chambers stated that IntelliRide transports passengers between points in Lancaster County and between points in Lancaster County and other points in the state every day. Currently, IntelliRide uses Transport Plus, Servant Cab, Madonna Rehabilitation and Midwest Special Services, but those carriers collectively cannot provide all the services that are required in Lancaster County. IntelliRide ceased using the services of the five Omaha Cab Cos. in November, 2014. GPS is currently in the top three rated performing providers for IntelliRide. Ms. Chambers believes there is a need for additional open class providers in Lancaster County, and if the application is granted, she will utilize the services of GPS in Lancaster County.

The second part of the test is whether this purpose can or will be served as well by the existing carriers. The evidence presented shows that the Protestants are not currently meeting the needs of the general public or of HHS.

It therefore appears from the record that the Protestants have not shown that they either can or will fill this public purpose or need.

We now turn to the issue of whether the public demand or need can be served by the Applicant in a specified manner without endangering or impairing the operations of existing carriers contrary to the public interest. The protestants did not produce specific evidence as to whether the granting of the application will endanger or impair their ability to operate.

However, the Commission finds that the interest of the public outweighs any potential damage that may be caused to the Protestants, which at this point in time is speculative. The public interest in this matter is very significant. The public has an interest in having an adequate number of open class providers available to meet its needs. Absent evidence of an impairment or endangerment to the operations of the Protestant, the Commission finds that the proposed operation can serve in the proposed manner without endangering or impairing the operations of existing carriers contrary to this overwhelming public interest.

The Commission should also approve the easing of the restriction against the use of sedans and station wagons in the Applicant's certificate. In 2002, the Commission found that there was a public interest in the protection of taxi companies. Open class companies can have an advantage over taxi companies as they can provide service to more than one passenger and charge for each while the taxi provider can be limited to the provision of service to one fare paying passenger at a time. The Commission found that the use of a sedan by an open class company would place it in a competitive advantage situation as compared to the taxi company.

The Commission finds that the restriction should be limited to those areas served by a single taxi company. In areas that are larger, there is already a strong competitive marketplace that does not exist in the smaller locations in the state. There is no compelling reason to limit an open class carrier to vans in the competitive market areas. Therefore, the Commission will amend the restriction so that the Applicant can use sedans and station wagons in areas where there is more than one taxi company, and leave the restriction against transportation by sedans and station wagons in areas that are served by a single taxi company.

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

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

2. The proposed intrastate service is or will be required by the present or future Public Convenience and Necessity to the following extent:

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

SERVICE AND TERRITORY AUTHORIZED: Transporting passengers in open class service between all points in Nebraska over irregular routes in sedans, vans, and station wagons. RESTRICTION: The transportation of railroad train crews and their baggage is not authorized. The transportation services of passengers and their baggage by sedan or station wagon originating from point-to-point within any territory where a single taxicab company holds a certificate or permit is not authorized. RESERVATION: The

Commission expressly reserves the right to further restrict the authority with respect to sedans and station wagons, on its own motion or the motion of another, in the event that a carrier which meets all the requirements of Article 75, Chapter 3, of the Nebraska Revised Statutes and all applicable Commission rules and regulations thereunder, offers taxi services in territories unserved as of November 26, 2002.

3. The application should be granted.

ORDER

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application B-1829, Supplement 1, be, and it is hereby, granted; and that upon compliance with the terms and conditions as set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Golden Plains Services Transportation, Inc., dba GPS Transportation, Lincoln, Nebraska, authorizing the operations as set forth in the foregoing findings.

IT IS FURTHER ORDERED that the Applicant shall not be issued the Certificate of Public Convenience and Necessity authorized by the Commission unless and until Applicant has fully complied, within a reasonable time from the effective date of this Order, with Neb. Rev. Stat. §75-305 (fees), 75-307 (insurance), and 75-308 (rates), and with the rules and regulations of the Commission; and if upon expiration of such time Applicant has not complied with such terms and conditions, this Order shall, after reasonable notice to Applicant, be of no further force and effect.

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

IT IS FURTHER ORDERED that Applicant shall render reasonably continuous and adequate service to the public pursuant to the authority authorized.

IT IS FURTHER ORDERED that the Certificate of Public Convenience and Necessity authorized shall be subject to the

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

MADE AND ENTERED at Lincoln, Nebraska, this 19th day of May, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



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


Vice Chairman

ATTEST:



Deputy Director

COMMISSIONERS DISSENTING:



DISSENT of Commissioner Crystal Rhoades:

I find that Golden Plains Services Transportation, Inc. dba GPS Transportation ("GPS") is not fit to provide the proposed service as required by Neb. Rev. Stat. 75-311. The evidence adduced at the hearing overwhelmingly demonstrates that GPS does not possess adequate technical or managerial competence and the application should be denied.

After thoroughly reviewing Exhibit 13, there is no question that the service provided by GPS does not meet the Commission's standard for fitness. Exhibit 13 contains fifty-two complaints made to IntelliRide by GPS passengers regarding services. Twenty-eight were found to be valid. It is important to note, however, that just because a complaint was found to be inconclusive or invalid does not mean that the complaint had no merit; rather, it merely shows that IntelliRide was unable to confirm or deny the substance of the complaint based on IntelliRide data and records. A sampling of the valid complaints against GPS includes:

- Passenger suffered heart attack due to "reckless" driving and excessive speed over 15 miles per hour of the posted speed limit in December 2014.

- Driver failed to properly secure wheelchair resulting in tipping of chair in transit in February 2015.
- Multiple drivers reported for making inappropriate comments referring to age, race, and religion.
- Driver dropped visually impaired passenger off at incorrect location in February 2015.
- Driver late picking up passenger who only had 2 hour supply of oxygen in October 2014.

The exhibit also shows instances where GPS failed to pick up a passenger, dropped passenger off late, and caused missed appointments. The poor service shows a lack of competence. Further, on a number of occasions, GPS tried to cover up inadequacies by designating a passenger a "No Show" even when the passenger was waiting as evidenced by IntelliRide's investigatory notes. Many of the complaints were in the four months immediately prior to the hearing and the drivers who had some of the most serious complaints against them continued to drive for GPS as evidenced by additional complaints from additional passengers against the same driver even after causing injury to passengers.

These passengers have serious medical conditions and need safe reliable transportation to medical appointments. GPS has not provided safe and reliable transportation under their existing authority and should not be rewarded for poor conduct by being allowed to expand service. While there is need for additional transportation services, the people of Lancaster County should not be subjected to the negligence and danger GPS passengers often endure. The reason the Commission considers fitness is to ensure quality and safety standards are met and meeting that requirement is as important as meeting the demand. It doesn't serve the public to put them in danger. The Commission has a duty to protect the public and extending service for this company will do more harm than good. Not only should GPS not be allowed to operate in Lancaster County, their existing authority should be reviewed in light of these complaints and serious consideration should be given to revoking authority if they cannot provide safe and reliable service to Nebraskans.


Crystal Rhoades