

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. B-1840
Public Service Commission, on)
its own motion, seeking to)
require Black Out Express,)
LLC, d/b/a Black Out Express) CERTIFICATE REVOKED
Party Bus, Lincoln, to show)
cause why its Certificate of)
Public Convenience and)
Necessity should not be)
revoked.) Entered: October 30, 2018

BY THE COMMISSION:

On December 17, 2014, the Motor Transportation Department (Department) received an insurance Form K notifying the Department insurance for Black Out Express, LLC d/b/a Black Out Express Party Bus, Lincoln, would expire on January 20, 2015. The Department attempted to contact Broderick Nickens, the owner of the business in question, to notify him the Commission received such notice. On January 20, 2015, the insurance coverage was cancelled.

On February 12, 2015, Black Out Express requested a suspension of its certificate. The Commission issued an order granting that suspension until September 16, 2016. Black Out Express was to have taken action on this certificate by February 16, 2016. On September 5, 2018, the Commission entered an Order requiring Black Out Express to show cause as to why its Certificate of Public Convenience and Necessity issued under Application No. B-1840 should not be revoked for failure to maintain proper insurance.

On October 10, 2018, a show cause hearing was held in the Commission Hearing Room in Lincoln, Nebraska. Ms. Jamie Reyes and Ms. Ellie Rohr appeared on behalf of the Commission staff. No appearance was made on behalf of Black Out Express. Exhibits 1 through 6 were received into evidence.

E V I D E N C E

Ms. Reyes confirmed Black Out Express' insurance has in fact lapsed as of January 20, 2015. Ms. Rohr expressed it is atypical for the Department to wait so long to move forward on a show cause; however, the delay stems from the inability to contact Mr. Nickens.¹ Ms. Rohr further commented there is no evidence that

¹ Hrg. Transcr. 2:19-23 (October 10, 2018).

Black Out Express has operated during this time.² Ms. Rohr explained to the Commission that when the Department was finally able to reach Mr. Nickens, he expressed a desire to bring the business back into compliance, and that he was working towards doing so.³ Ms. Rohr further explained how afterwards the Department received no further communication from Mr. Nickens until one of the investigators was able to talk with him in person; during which Mr. Nickens still expressed he wanted to proceed with the business.⁴ Ms. Rohr also stated that although Mr. Nickens has ceased communicating with the Department, he did sign for the certified letter at the address on file with the Commission.⁵

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

Black Out Express, LLC, d/b/a Black Out Express Party Bus, is a common carrier regulated by the Commission pursuant to NEB. REV. STAT. §§ 75-101 et. seq. and 75-301 et. seq. (2016 Cum.Supp.), and Title 291, Chapter 3 of Commission Rules and Regulations.

NEB. REV. STAT. § 75-315 states that certificates may be revoked after notice and hearing for willful failure to comply with Nebraska statutes governing the Commission, any Commission rule or regulation, or any term, condition, or limitation of the certificate. § 75-307(1) requires certificated carriers to comply with Commission rules regarding insurance and file those policies with the Commission. Title 291, Ch. 3 of the Commission Rules and Regulations §§003.03 and 006 set forth the minimum insurance requirements for motor carriers transporting passengers for a fee in this state.

Evidence entered into the record shows Black Out Express, LLC, d/b/a Black Out Express Party Bus' insurance was cancelled on January 20, 2015, as shown by the Form K Uniform Cancellation of Motor Carrier Insurance Policies entered into the record as Exhibit 2. Black Out Express failed to update its insurance information after notification by the Department, and has not contacted Commission staff regarding options available. No representative for Black Out Express appeared at the hearing to show cause as to why its Certificate of Public Convenience and Necessity should not be revoked.

² *Id.* at 2:25-3:2.

³ *Id.* at 3:3-5.

⁴ *Id.* at 3:6-9.

⁵ *Id.* at 3:9-11.

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Based on the evidence presented, the Commission finds the Certificate of Public Convenience and Necessity issued to Black Out Express, LLC, d/b/a Black Out Express Party Bus, Lincoln, should be revoked for failure to comply with NEB. REV. STAT. § 75-307(1) and Commission Rule 006.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the Certificate of Public Convenience and Necessity issued in Application No. B-1840 to Black Out Express, LLC, d/b/a Black Out Express Party Bus, Lincoln, be, and is hereby revoked.

IT IS FURTHER ORDERED that any vehicle plates which have been assigned by the Commission must be returned to the Commission within ten (10) days of the effective date of this Order.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 30th day of October, 2018.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Cynthia Swadlow

Mary Ridder

Chair

Jeff Anderson

ATTEST:

Tim Schran

Michael H. P.

Executive Director

//s//Frank E. Landis

//s//Mary Ridder