

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Application No. B-1883
Public Service Commission, on)
its own motion, seeking to)
require Opulence Limousine,)
Inc., Lincoln, to show cause) ORDER REVOKING CERTIFICATE
why its Certificate of Public)
Convenience and Necessity)
should not be revoked.)
) Entered: January 8, 2019

BY THE COMMISSION:

On October 28, 2014, the Commission granted the application of Opulence Limousine, Inc., ("Opulence") to operate as a common carrier in Nebraska intrastate commerce in the transportation of passengers by bus in special party and charter service within a 100-mile radius of Lincoln. On December 29, 2014, the Motor Transportation Department ("Department") received an insurance Form K notifying the Department that the liability insurance policy for Opulence would expire on January 26, 2015. The Department attempted to contact Kevin Conley, the owner of the business in question, to notify him the Commission received such notice. On January 26, 2015, the insurance coverage was cancelled.

On February 17, 2015, Opulence requested a suspension of its certificate. The Commission issued an order granting that suspension on February 24, 2015. Opulence was to have taken action on this certificate by February 23, 2016. On September 5, 2018, the Commission entered an Order requiring Opulence to show cause as to why its Certificate of Public Convenience and Necessity issued under Application No. B-1883 should not be revoked for failure to maintain proper insurance. Hearing was originally scheduled of October 10, 2018. However, the Department was unable to confirm service and the matter was continued until December 4, 2018.

On December 4, 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 Opulence. Exhibits 1 through 9 were received into evidence.

EVIDENCE

Ms. Reyes confirmed Opulence's insurance has in fact lapsed as of January 26, 2015. She additionally noted the short time span between which Opulence received their certificate and the time when the suspension was requested.¹ Ms. Reyes further noted the Department made several attempts to reach Mr. Conley, to no avail. However, the Department was able to contact Mr. Broderick Nickens, the owner of Black Out Express Party Bus. Mr. Nickens and Mr. Conley were a family relation and Mr. Nickens indicated he was going to be taking over the Certificate for Opulence. Neither party took action to that effect. Mr. Nickens' certificate for Black Out Express was revoked October 10, 2018 under similar circumstances.²

Mr. Greg Rocke, an inspector for the Motor Transportation Department, testified as to the attempts to serve Mr. Conley. Mr. Rocke attempted personal service at the last known address three times. Each attempt was unsuccessful. Mr. Rocke further attempted to contact Mr. Nickens regarding Opulence at his place of business to no avail.³ Mr. Rocke did successfully reach Mr. Nickens by phone. Mr. Nickens stated Mr. Conley was out of the country.⁴ The Department was unable to find any additional information as to the whereabouts of Mr. Conley.

OPINION AND FINDINGS

Opulence Limousine, Inc., 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.

¹ Hrg. Transcr. 3:10-18 (December 4, 2018).

² *Id.* at 2:25-3:2.

³ *Id.* at 7:14-8:5.

⁴ *Id.* at 8:6-8.

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Evidence entered into the record indicates the insurance policy for Opulence Limousine, Inc. was cancelled on January 26, 2015, as shown by the Form K Uniform Cancellation of Motor Carrier Insurance Policies entered into the record as Exhibit 2. Opulence failed to update its insurance information after notification by the Department, and has not contacted Commission staff regarding options available. No representative for Opulence appeared at the hearing to show cause as to why its Certificate of Public Convenience and Necessity should not be revoked.

Based on the evidence presented, the Commission finds the Certificate of Public Convenience and Necessity issued to Opulence Limousine, Inc., 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-1883 to Opulence Limousine, Inc., 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 8th day of January, 2019.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Cystal Swades
Tim Schron

Mary Riddle
Chair

ATTEST:

Michael H. [Signature]
Executive Director