

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	APPLICATION NO. LR-247
Prescription of Reasonable Rates)	
and Charges for Motor Carriers)	GRANTED ON AN EMERGENCY
Passengers and Property for Hire)	BASIS
Subject to the Provisions of)	
Neb. Rev. Stat. (Reissue 1996),)	
Chapter 75, Articles 1 and 3.)	ENTERED: JANUARY 13, 2004

BY THE COMMISSION:

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

On December 24, 2003, Brown's Crew Car of Wyoming, Inc., d/b/a Armadillo Express, Cheyenne, Wyoming, filed an application for authority to amend its rates and charges applying in Nebraska intrastate commerce for the transportation of passengers and their baggage between points in Nebraska as follows:

(a) Revoke all existing rates and charges applicable to the transportation of passengers and their baggage between points in Nebraska by Applicant; and

(b) Concurrently establish the following rates and charges applicable to such transportation by Applicant:

Part I. Mileage Rates:

- A. Rate per round trip mile for the transportation of passengers and their baggage between points in Nebraska \$0.62
- B. Minimum charge per trip \$25.00
- C. If service for a trip is requested by a customer and the trip is subsequently canceled after a vehicle has been dispatched and is under way but before any passengers have been transported, a canceled trip charge will be applicable equal to the greater of Applicant's minimum charge per trip or the mileage rate for each round trip mile the vehicle is operated as the result of the customer's request for service.
- D. When due to no disability, fault or negligence on the part of the carrier, the carrier's equipment

is delayed (whether while loading, unloading, or otherwise) at or on the premises of the customer or while en route at the request of the customer, the following shall apply:

- (i) Free time for lading, unloading, and any interruption in service caused by an official stop or interruption of trip at customer's request shall be thirty (30) minutes per trip in the aggregated.
- (ii) Time consumed in loading and unloading shall be computed from the time of arrival until the departure of the vehicle, including waiting time in reaching the lading or unloading point. Time consumed in any interruption in service shall be computed from the time the vehicle is stopped at customer's request to the time the trip is resumed.
- (iii) If the vehicle is delayed beyond the free time provided in Subparagraph (i) above, a charge of \$8.50 for each half hour or fraction thereof for the time consumed by such delay beyond the free time shall be made.

- E. The mileage rate specified in Paragraph A is applicable only for trips begun in any calendar month in which the retail cost of regular gasoline at the beginning of such month, as determined from the Gasoline and Diesel Fuel Update prepared by the U.S. Department of Energy for the Midwest Region, does not exceed \$1.45 per gallon, the applicable mileage rate shall be the mileage rate specified in Paragraph A, increased by one cent per mile for each 10 cents or fraction thereof that the retail cost of regular gasoline as so determined exceeds \$1.45 per gallon.

NOTE: Round trip mileage is determined as the distance of a trip in miles from designated trip starting point to point of destination and back to designated trip starting point, inclusive of any out-of-route miles traveled at customer request, without regard to whether the vehicle is occupied by passengers during all or any part of such trip.

Part II. Dedicated Yard Vans.

- A. Standard Dedicated Yard Vans. Where carrier is requested by a railroad in writing to furnish one or more vans to be stationed at a railroad yard on a 24 hours per day, seven days per week basis to be used to provide service exclusively within a 25 mile radius of the railroad-designated starting point located within the railroad yard at which such van is stationed, each van so requested and stationed shall be a "standard dedicated yard van" and carrier's rate for each standard dedicated yard van shall be \$16.50 per hour for each hour or fraction thereof from the time such standard dedicated yard van is initially stationed at the railroad yard until such time as it is removed from service as the standard dedicated yard van.

- B. Designated Shift Dedicated Yard Vans. Where carrier is requested by a railroad in writing to furnish one or more vans to be stationed at a railroad yard for not less than eight consecutive hours per day, seven days per week, but for less than 24 hours per day, seven days per week, to be used to provide service exclusively within a 25 mile radius of the railroad-designated starting point located within the railroad yard at which such van is stationed, each van so requested and stationed shall be a "designated shift dedicated yard van" and carrier's rate for each designated shift dedicated yard van shall be \$20.00 per hour for each hour or fraction thereof such designated shift dedicated yard van is used in service of the railroad.

- C. Extended Dedicated Yard Vans. Where carrier is requested in writing to furnish one or more vans to be stationed at a railroad yard on a 24 hours per day, seven days per week basis to be used to provide service exclusively within a 50 mile radius of the railroad-designated starting point located within the railroad yard at which such van is stationed, each van so requested and stationed shall be an "extended dedicated yard van" and carrier's rate for each extended dedicated yard van shall be \$20.00 per hour for each hour or fraction thereof from the time such extended dedicated yard van is initially stationed at the railroad yard until such time as it is removed from service as an extended dedicated yard van.

- D. Vehicle Substitution. In the event (i) carrier, at railroad's request, has stationed in such railroad's railroad yard both one or more standard dedicated yard

vans and/or designated shift dedicated yard vans and also one or more extended dedicated yard vans, and (ii) said railroad requires the use of a dedicated yard van to perform service beyond the 25 mile radius of the railroad-designated starting point located within the railroad yard at which such van is stationed at a time when carrier has no extended dedicated yard van immediately available to perform such service, and (iii) carrier is then using fewer vans to perform service beyond said 25 mile radius than the number of extended dedicated yard vans then stationed at said railroad yard pursuant to such railroad's request, Carrier shall use any available standard dedicated yard van or designated shift dedicated yard van then stationed at said railroad yard to perform the required service beyond said 25 mile radius; PROVIDED, carrier shall not at any one time operate more of the dedicated yard vans stationed at any one time operate more of the dedicated yard vans stationed at such railroad yard beyond such 25 mile radius than the total number of extended dedicated yard vans then stationed at such railroad yard at the request of railroad; and PROVIDED FURTHER, that carrier's charges to railroad for dedicated yard vans shall not be affected by any such substitution of a standard dedicated yard van or designated shift dedicated yard van for an extended dedicated yard van.

- E. Termination of Dedicated Yard Van Service. Standard dedicated yard van service, designated shift dedicated yard van service and extended dedicated yard van service, once requested by railroad, shall not be terminated with respect to any one or more vehicles except upon 30 days advance written notice; PROVIDED, HOWEVER, that any designated shift dedicated yard van shall be converted to either a standard designated yard van or an extended designated yard van and any standard designated yard van shall be converted to an extended designated yard van at any time at the written request of railroad. In the event carrier is denied access to railroad's facilities or is otherwise precluded or hindered by railroad from providing such service during any such 30 day notice period, carrier's charges with respect to such 30 day notice period shall be determined as if carrier's service was continued without preclusion or hindrance for the entire 30 day notice period.

- F. Short-Turn Vans. Where carrier is requested in writing to furnish a dedicated van (other than a standard dedicated yard van, a designated shift dedicated yard van, or an extended dedicated yard van) to provide service at any location, carrier's rate for providing service using such dedicated van shall be \$24.00 per hour for each hour or fraction thereof from the time such dedicated van is initially placed in service for railroad until the use thereof by railroad is concluded, subject to a minimum charge of \$192.00.
- G. Alternation of Rates. Notwithstanding any other provision of this Part II, Carrier's charges for each trip provided using dedicated vans requested by railroad as provided in this Part II shall be the greater of the applicable hourly rate specified in this Part II or the mileage rate specified in Part I.
- H. Electronic Transmissions. Written notices required or permitted by this Part II may be transmitted via fax, e-mail, or any other available means of electronic communication, the authenticity whereof may be reasonably verified.

Emergency action is requested.

Applicant is an authorized common carrier holding operation authority from the Commission in Certificate B-1144 and supplements thereto. The authority granted permits the transportation of passengers and their baggage between points in Nebraska.

In support of this application, the Applicant points out that it has not increased its rates in the last 5 and ½ years. The Applicant suggests that the increase is necessary to meet significant increases in its operation costs. Specifically, the Applicant cites increasing liability insurance and rising fuel, vehicle, labor, repair, maintenance, and employee compensation costs as reasons for the increased rate.

Upon consideration of the application and being fully advised in the premises, the Commission is of the opinion and finds that the application should be granted on an emergency basis effective January 19, 2004.

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O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that effective January 19, 2004, Brown's Crew Car of Wyoming, d/b/a Armadillo Express, Cheyenne, Wyoming, be, and it is hereby, authorized to establish rates for its use as set out above.

IT IS FURTHER ORDERED by the Nebraska Public Service Commission that public notice of this action be published in The Daily Record, Omaha, Nebraska pursuant to the provisions of Section 75-121, R.R.S. 1996, and the Commission's rules.

MADE AND ENTERED at Lincoln, Nebraska, this 13th day of January, 2004.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Lowell Johnson

Frank E. Landis

//s//Frank E. Landis

//s//Gerald L. Vap

Chairman

Gerald L. Vap

ATTEST:

Ad S. Pollack

Executive Director