

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	APPLICATION NO. LR-270
Prescription of Reasonable Rates)	
and Charges for Motor Carriers)	GRANTED AS MODIFIED IN
Passengers and Property for Hire)	PART AND DENIED IN PART
Subject to the Provisions of)	
Neb. Rev. Stat. (Reissue 2003),)	
Chapter 75, Articles 1 and 3.)	ENTERED: NOVEMBER 28, 2006

APPEARANCES:

PROTESTANT:

Bradford E. Kistler
Attorney-at-Law
121 South 13th Street
Lincoln, NE 68501

COMMISSION STAFF:

Mark J. Breiner
1200 N Street
Suite 300
Lincoln, NE 68508

BY THE COMMISSION:

On August 7, 2006, VIP Limousine, L.L.C., Omaha, Nebraska, 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. The application was denied on an emergency basis on August 8, 2006. The application was published in the Daily Record on August 20, 2006.

On September 8, 2006, a protest was timely filed by OMALiNK, Inc., by its attorney of record, Bradford Kistler. A hearing on this matter was held on September 27, 2006.

Applicant is a certified common carrier which holds Certificate B-1640. The certificate authorizes the transportation of passengers and their baggage by luxury sedan limousines between points in Washington, Sarpy, Douglas, and Cass Counties. SUPP. 1(a): Passengers and their baggage by luxury sedan, limousine, and passenger vans between points in Nebraska. RESTRICTIONS: The transportation of railroad train crews and their baggage is not authorized. The use of rate meters is not authorized. The transportation of clients of the Department of Health and Human Services is not authorized.

There was one preliminary matter regarding the submission of the various certificates of authority held by the applicant to the protestant. Leave was granted by the hearing officer to

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provide those as late filed exhibits. Those exhibits were filed in a timely basis with the protestant and applicant and are hereby admitted into the evidence in this matter.

EVIDENCE

The witness for the Applicant was William Alford, owner of VIP Limousine, L.L.C. Mr. Alford made preliminary statements regarding some changes that he was proposing to the rate structure subject to this application. He also stated that he was attempting to simplify matters between his on-line bookings and other methods of booking trips, as well as establish a bus and shared-ride van rates in response to some requests from hotels and the interest in commuter service that has been expressed by people in the area.

Mr. Alford proposed some adjustments to the proposed rate structure as follows. He stated that he wanted to take the sedan transfer rate back to fifty dollars per trip from the proposed sixty dollars per trip. He proposed reducing the peak rate charge for six and eight passenger vehicles from \$40 per hour to \$20 per hour. He also proposed adding ninety-five cents to the categories of the shared ride van structure.

Mr. Alford testified that the shared van service would not be a competitor for the cab companies in Omaha. He stated that his service would replace vans that will no longer be provided by hotels such as the Embassy and Crown Center.

Mr. Alford also pointed out that his service would be at a disadvantage in comparison to the cab company as it is a shared ride service, and therefore passengers would not have the exclusive right to the vehicle as in a cab. Many passengers would be subject to longer rides depending on the route of the van. The rate also would sometimes be higher and other times lower than a cab charge depending on mileage.

The fuel surcharge was based upon a similar surcharge that is charged nationally by Boston Coach, a nationwide company that the applicant does contract work with. The surcharge amount is necessary, according to Mr. Alford, to assist with the profitability of the company. Most of the bookings for the applicant are done in a nine month period, whereas fixed expenses are incurred all year.

The advantage of the proposed surcharge is that it is flexible with gasoline prices. Mr. Alford asserted that the surcharge is reasonable as it is one that is in use nationally.

It was also pointed out that the surcharge is not being protested.

Off -peak rates are used by the applicant in an effort to better utilize their fleet. The lower rate is designed to encourage last minute use. Peak rates are higher, according to Mr. Alford, as they insure the customer that the vehicle that they desire to book will be available.

Upon cross-examination by Mr. Kistler, the issue of peak rates were addressed. After defining that classic rates for vehicle 1998, it was discussed that rates proposed are the base and that the surcharges are added. Mr. Alford testified that 90 percent of his bookings are done at off peak rates such as corporate clients or last minute bookings.

Commissioner Boyle inquired as to applicability of peak rates to special events such as concerts and also when peak rates are discussed with the customer. Mr. Alford stated that peak rates applied to special events, including concerts, and that peak rate charges are discussed at the time of booking.

Mr. Alford testified that his commuter rates were designed to be competitive with the rates as charged by Eppley Express. He said that his company is still exploring a commuter service, but that none has been set up yet and no equipment has been purchased.

When asked by Mr. Kistler, Mr. Alford acknowledge that he was not certain if he had the authority to provide a commuter service under this certificate. He stated that he was looking to establish a commuter bus service, and that if it did not fit under this certificate he would either find one of his authorities that did or apply for a new certificate that would permit said service.

The trip cards as described in the proposal are for one-way trips. The pricing structure was discussed regarding the viability of the proposed rates. With the surcharges, a 100 trip cars would cost around \$1,000, or \$10 per trip. Mr. Alford testified that he thought that if he could have twenty-five passengers per bus that the \$10 figure would be profitable. He admitted that he had not done any marketing or other studies to determine the number of commuters who might take advantage of the proposed service.

Mr. Alford testified that vans with twelve passengers would be profitable. He also noted that any service of this type would probably have a blend of commuter card customers and other

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fare paying customers that would be using the service at that time.

Upon examination by Commission staff, Mr. Alford stated that the twenty-five dollar service charge for cancellations or changes was new. He said that he had not thought whether or how the charge would apply to changes, and that if the Commission saw a problem with the charge that it could be stricken. Mr. Alford stated that peak times have been restricted from past peak times authorized, and that the methodology of the peak fare has changed from a discount for off-peak times to an upcharge for peak bookings.

These proposals result in a slight decrease in no-peak time rates, and peak time rates being increased in excess of 17 percent. Mr. Alford stated that these increases are necessary as his company is currently losing money and needs to return to a profitable situation. He also informed the Commission that he is incurring new costs such as a GPS system for his vehicles for improved safety and service as well as a new telephone reservation system.

Mr. Shawn Mrsny, the general manager of the protestant OMALiNK, testified next. He stated that OMALiNK operates regular route service several times daily between Omaha and Lincoln.

Mr. Mrsny testified that his company was concerned about the proposed rates of the applicant as to the commuter rates. He testified their experience is that a round trip in their vans can cost up to \$125 per round trip. Their average load per trip is 3.65 passengers. He testified that they could not make a profit at \$10 per passenger, and that they could not be competitive at that level.

OPINION AND FINDINGS

The Commission will consider this matter in three areas: the limousine rate proposal, the shared van rates and the commuter rate proposal.

In rate applications, the Commission is to look not only at the rates proposed by the applicant but also rates that are in effect in the local market. The Commission is to determine what rates are reasonable. In this application, the protest was not concerned with the limousine charges as proposed by the applicant. There was no protest filed in this matter that involved the limousine rates. The Commission finds that the non-peak rates and the surcharge proposed are reasonable under

the circumstances for the service provided. The non-peak rates are competitive with other companies providing similar services. The non-peak rates should be approved as modified by Mr. Alford in his testimony.

The Commission does find, however, that the peak rates as proposed are not reasonable or competitive. The Commission finds that the peak rates requested by the applicant should be modified as follows: 6 and 8 passenger limousines \$20 per hour; stretched cars \$40 per hour; stretched SUVs 140 inches or smaller \$50 per hour; stretched SUVs over 140 inches \$75 per hour; buses \$90 per hour.

The next proposal the Commission will consider is the shared van rates. The Commission's rules require that a limousine provider charge a premium rate for its services. In this instance, the Commission finds that the proposed rates should not be considered as a premium rate. The Charge for a trip a little over ten miles would result in a charge of \$22.95 for a taxicab, and a charge of \$23.05 (at a five percent gasoline surcharge level) for the shared van. A trip of just under twenty miles would result in the shared van charge of the same \$23.05, but the taxicab charge would be \$41.85. This result is similar under all of the rates as proposed by the applicant in this matter.

The Commission is aware of the advantages that a taxicab has over a shared van in the level of service provided to the individual consumer. However, the Commission finds that the proposed charges are not of a premium nature as required by Public Service rules. While the rates as proposed may be reasonable for an open class provider, they are not reasonable for a limousine service. The Commission therefore finds that the shared ride proposal should be denied in this application.

The Commission next considers the commuter rate proposal. The Commission commends the applicant for attempting to address a situation that will, if not now, be an important issue in passenger transportation in the future. In examining the certificate held by the applicant in this matter, the Commission has some of the same issues before it that were present in the shared van ride proposal. The Commission finds that the certificate held by the applicant in this application does not allow for the provision of regular route service in busses or vans.

The Commission is also concerned regarding the level of the pricing proposed. The evidence given by the protestant was that the levels proposed by the applicant would not be profitable and

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that they could not compete with that pricing in their current existing service. No solid evidence was presented regarding the level of participation of consumers at the prices proposed, and it appears that there must be strong public utilization of the proposed service for the proposed charge to be anything near profitable.

The Commission notes the lack of clarity in the no service charge as proposed by the applicant. While the Commission understands a no service charge when the customer cancels a booking, it is concerned about the charge if only a change is made and it does not negatively impact the applicant. The Commission hereby finds that a twenty-five dollar (\$25) cancellation charge may be made, but does not extend that charge to a mere change in the booking when said booking is not cancelled.

Upon consideration of the application and being fully advised in the premises, the Commission is of the opinion and finds that the application be granted in part and denied in part. The rates as approved by the Commission should take effect on December 4, 2006.

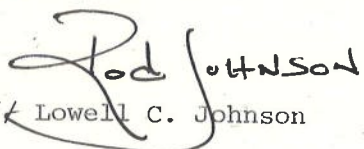
O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that effective December 4, 2006, VIP Limousine, L.L.C., Omaha, Nebraska, be, and it is hereby, authorized to amend its rates as approved and modified as set forth in Exhibit LR270A attached hereto.

MADE AND ENTERED at Lincoln, Nebraska, this 28th day of November, 2006.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s/ Lowell C. Johnson

COMMISSIONERS DISSENTING:

//s// Anne C. Boyle


Chairman

ATTEST:


Executive Director