

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. M-14110
Mike's Moving, Inc., Omaha, seeking)
authority as a common carrier in)
Nebraska intrastate commerce in the) GRANTED
transportation of household goods)
between points within a 15-mile)
radius of the Omaha metropolitan)
area over irregular routes.) ENTERED: March 25, 1997

APPEARANCES: For the applicant:
John K. Green, Esq.
1623 Farnam, Suite 500
Omaha, NE

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed August 20, 1996, Mike's Moving, Inc. of Omaha seeks authority as a common carrier in Nebraska intrastate commerce and transportation of household goods between points within a 15-mile radius of the Omaha metropolitan area over irregular routes. Notice of the application was published in the Omaha Daily Record on August 21, 1996, pursuant to the rules of the Commission. Protests to the application were filed by Gordon Moving and Storage Company, Inc., Star Warehousing Company, and Chieftain Van Lines, Inc. Hearing on the application was held February 5, 1997 in Omaha with appearances as shown.

Applicant produced two witnesses.

Jim Warren testified: He is the mayor of Gretna. There are no moving companies in Gretna which is within the standard metropolitan statistical area of Omaha. It lies in Sarpy County. The majority of moves to Gretna are from Omaha. The next highest group of movers would be those who move within the city limits. Within Sarpy County there is also Springfield which is more than five miles from any existing community. There are only five towns in the county: Plattsmouth, Elkhorn, Bennington, Arlington, and Yutan. He supports the application.

Richard Michael Mangan testified: He is president of Mike's Moving, Inc. and sole shareholder. Applicant has been in business nearly 23 years. It has been incorporated for the last four or five years. It advertises in the Omaha telephone directories. He gets calls from Sarpy, Washington, Dodge, and Saunders Counties. Applicant has had a permit for transportation of commodities on contract with Sears shown as Exhibit 1. Exhibit 2 shows the Yellow Page advertising in the Telecom USA 1996 telephone book. Applicant does a lot of work for ServiceMaster. Exhibit 3 is a letter from ServiceMaster in support of the application. Exhibit 4 shows the financial statement of the company as of December 31, 1996.

Applicant has five moving vans ranging from 16 foot boxes to 30 foot boxes. It has 12 full time employees. It also employs part-time workers as needed. Applicant needs this authority because a lot of people are moving out of Omaha to Gretna. Without the authority, applicant cannot serve them. He gets calls for work outside the five-mile limit of his present statutory authority. He handles smaller moves and pianos. He provides packing services and unloading service. Applicant's gross income in 1996 was \$409,918.20. Scheduling a move of Mary Sears between Plattsmouth and Beaver Lake was a mistake. When he realized the mistake, he suggested the customer call Chieftain. She did not want to call Chieftain because Chieftain had moved her three times with a lot of damage. The move was eventually made on a rental truck. He did not make any money on the move, he did not want to leave the woman stranded.

Dennis Leslie testified: He does not believe there is a need for more movers within the 15-mile radius applied for by applicant. Applicant is a good mover for locals. In October 1996, Chieftain had a storage lot in one of its warehouses that was to move from there to Beaver Lake. Chieftain was notified by the person that she wanted to cancel the contract because another moving company would do the move cheaper than Chieftain could. He found out that it was Mike's Moving that was going to do the move. He reported the matter to the Public Service Commission. Exhibit 5 shows the correspondence surrounding that incident. Once applicant gets authority he will find out that he cannot operate at a lower cost than the others. He will be a member of Tariff 7-E. Service is all that movers can sell. The rates are the same.

Protestants offered no other evidence.

Neb. Rev. Stat. 75-311 (Reissue 1996) provides:

(1) 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 to conform to the provisions of sections 75-301 to 75-322 and the requirements, rules, and regulations of the commission under such sections and (b) the proposed service, 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. ***

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The evidence shows that applicant has extensive experience and history in the household goods moving business as a local carrier. It has adequate equipment and financial resources to provide the service proposed. Although applicant apparently undertook a move outside the five-mile radius of its authority, it took steps to comply with the law and, at the same time, served the customer. This incident should not preclude the applicant from a grant of authority.

Testimony showed that there are many communities within the radius requested by applicant that have no local moving services. Protestants did not offer any specific evidence that a grant of this authority would impair their ability to operate. The evidence clearly preponderates in favor of the applicant. The Commission must conclude that public convenience and necessity requires that the application should be granted.

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

1. Applicant is fit, willing and able properly to perform the services proposed and to conform with the statutes and the rules of the Commission thereunder.
2. Public Convenience and Necessity requires the services of the applicant as follows:

SERVICE AND TERRITORY AUTHORIZED:

Transportation of household goods within a 15-mile radius of the Omaha metropolitan area over irregular routes.

3. The application should be granted.

O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that Application M-14110 be, and it is hereby, granted; and that upon compliance with the terms and conditions set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Mike's Moving, Inc., Omaha, in Application M-14110, authorizing the operations set forth in the foregoing findings.

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IT IS FURTHER ORDERED that 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 Sections 75-305 (fees), 75-307 (insurance), and 75-308 (rates), R.S.SUPP. 1995, 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 terms, conditions, and limitations which have been, or may hereafter be, prescribed by the Commission.

MADE AND ENTERED at Lincoln, Nebraska, this 25th day of March, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

[Signature of Rod Johnson]

[Signature of Anne C. Boyle]

//s//Rod Johnson

//s//Frank E. Landis

//s//Daniel G. Urwiller

Chairman *[Signature of Rod Johnson]*

ATTEST:

[Signature of John Burdum]

Deputy Director