

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. M-14140
Bryan E. Slotter dba Bryan's Team)
Moving seeking authority as a common)
carrier in Nebraska intrastate commerce)
in the transportation of household goods) GRANTED AS MODIFIED
between points in and within a 100-mile)
radius of Omaha over irregular)
routes.) ENTERED: AUGUST 12, 1997

APPEARANCES: Bryan E. Slotter, pro se
222 North 113th Street
Omaha, Nebraska 68164

BY THE COMMISSION:

OPINION AND FINDINGS

By application filed May 12, 1997, Bryan E. Slotter dba Bryan's Team Moving, Omaha, seeks authority as a common carrier in Nebraska intrastate commerce in the transportation of household goods between points in and within a 100-mile radius of Omaha over irregular routes.

Notice of the application was published in The Daily Record, Omaha, Nebraska, on May 14, 1997, pursuant to the rules of the Commission.

Protests to the application were filed on May 22, 1997, by Star Warehousing Company and Benson Transfer, on May 27, 1997, by Chieftain Van Lines, Inc., and Ford Van Lines, Inc., on May 29, 1997, by Blair Moving, on June 2, 1997, by Vaughn Moving, on June 3, 1997, by Jim's Moving & Delivery, on June 4, 1997, by Andrews Van Lines and Gordon Moving & Storage. The protest of Blair Moving was withdrawn on July 1, 1997. Hearing on the application was held in Omaha on July 17, 1997, with appearances as shown.

Four witnesses testified in support of the application.

Bryan E. Slotter testified: He became aware he needed authority in mid-March when he was issued a ticket for operating without authority. He has been making small moves, moving antique furniture, and other items for clients. He has been doing commercial moving of office furniture for friends of the family. He also gets calls for household goods moving, so, in order to stay within the guidelines of the state, he seeks authority. He has friends in Beaver Lake that move furniture back and forth between Omaha and Beaver Lake. That is the reason for the request of 100 miles. He has a full-sized Ford van. He intends to buy a 24-foot straight truck. Beaver Lake is 27 miles from Omaha. He has operated in and around Omaha for seven years. The financial statement he filed with his application has not changed substantially since the filing of the application. He operates out of his home. He advertises in the Yellow Pages. He carried insurance up to the time he discontinued his operation due to the citation. He has two part-time employees.

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Dianne Thompson testified: Applicant is dependable and always on time. He knows what he is doing when he helps with upholstery. He delivers furniture for her. He knows how to pack a truck. Applicant knows how to fit furniture through small doorways and place the furniture where it is supposed to be. Applicant has assisted her on and off for the past year. She feels that applicant would be a responsible carrier, a lot better than anyone else. She works out of her home in Bennington as an upholsterer. She would need service as far from Bennington as Bellevue, Waterloo, Fremont and Elkhorn, and north to Blair. There is a need for applicant's service.

Donald E. Slotter testified: He is the father of applicant. Applicant is very efficient at loading a vehicle. Applicant has had very few damage claims. When he has had complaints for damage, applicant has solved the problem.

Kristin Newcomer testified: She has seen applicant move office furniture. His work was very satisfactory. There were no damages. The job was completed on time. She has also seen applicant move residential furniture which he does very carefully. Applicant makes sure that the furniture is packed so that nothing gets broken. She would not require service outside of the city of Omaha. She was moved from Gretna to Omaha by applicant in December, 1996.

Six protestants appeared and testified.

John Wavra testified: He has no qualms with applicant's fitness. There are too many people in the moving business. Regulation is a two-edged sword. It is protection for the consumer and to allow a carrier to make a profit. There are more than 50 certificated carriers that currently serve the area that applicant seeks. Even if applicant were to reduce the radius to local moving, there are at least 25 to 30 current certificate holders to do that business. His company has never turned down business. He sees his business falling. Five to eight years ago, his company did 25 to 30 intrastate moves a year. Last year, it did five. There are too many people in the moving business now.

Dennis Leslie testified: He is vice president of Chieftain Van Lines in Ralston. He protests the 100-mile radius applicant seeks. Chieftain has no problem with applicant being a local mover. Chieftain has seen its business drop off in the past five years in intrastate-local business.

Earl Bahr testified: He is testifying for Andrews Van Lines. The applicant is not needed in Omaha. Andrews has an agent there. Service is being taken care of adequately in the Omaha area.

Scott Vaughn of Vaughn's Moving testified: He does not question the fitness of the applicant. There are too many movers in Omaha. Applicant charges below the tariff rate that he must charge. He has been moving for approximately 53 years. He would like to get a 50-mile radius but can't. He is busy but he has trucks coming in at 2:00 p.m., and he would like to keep them out until 4 or 5 p.m. He does not feel that any more movers are needed in Omaha. His business decreases in the winter. He does not question applicant's ability. There is not enough work for all the movers now.

Brad Woodle testified: There are between 25 and 30 local moving companies in Omaha. In the summertime, he runs all the trucks and men he can get. In the wintertime, it slows down.

Steve Westerfield testified: He is president of Benson Transfer & Storage. His protest was based on the 100-mile radius requested. There is not an additional need in the state of Nebraska for intrastate movers. His firm does between one and two moves per month on average in intrastate moves. There are plenty of quality movers in Omaha. None of them are at capacity on intrastate moves.

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

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. ***

The evidence shows that applicant has considerable experience in the household goods moving industry. He has the equipment and the capacity to add equipment necessary to perform the service provided. Applicant shows a net worth of more than \$56,000 which should be adequate to capitalize the proposed service. Protestants did not challenge applicant's fitness, willingness and ability.

On the issue of public convenience and necessity, the applicant did not produce any witness that testified to need for service beyond 40 miles from Omaha. That radius would include Blair, Fremont, Beaver Lake and any other point mentioned in the testimony. The evidence supports a grant of authority within that 40-mile radius but no larger.

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

1. Applicant is fit, willing, and able properly to perform the service proposed and to conform to the provisions of Neb. Rev. Stat., Sections 75-301 to 75-322, (Reissue 1996), and the requirements, rules and regulations of the Commission thereunder.
2. The proposed intrastate service is or will be required by the present or future public convenience and necessity to the following extent:

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CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Household goods between points in and within a 40-mile radius of Omaha, Nebraska, 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-14140 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 Bryan E. Slotter dba Bryan's Team Moving, Omaha, Nebraska, in Application M-14140, authorizing the operations set forth in the foregoing findings.

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 Neb. Rev. Stat., (Sections 75-305 (fees), 75-307 (insurance), and 75-308 (rates), (Reissued 1996) 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 12th day of August, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Rod Johnson
Anne C. Boyle

//s//Rod Johnson
//s//Frank E. Landis

COMMISSIONERS DISSENTING:

//s//Daniel G. Urwiller

Chairman

ATTEST:

Robert H. Logsdon
Executive Director