

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of) APPLICATION NO. M-14140
Bryan E. Sloter dba Bryan's Team)
Moving, Omaha, Nebraska, for)
authority as a common carrier in) MOTION FOR REHEARING
Nebraska intrastate commerce in the) AND/OR RECONSIDERATION
transportation of household goods.) SUSTAINED IN PART
)
) ENTERED: SEPTEMBER 23, 1997

BY THE COMMISSION:

OPINION AND FINDINGS

By order entered August 12, 1997, applicant was granted authority to operate as follows:

Transportation of household goods between points in and within a 40-mile radius of Omaha over irregular routes.

Although no formal motion was filed, the Commission elected to treat a letter from John Wavra, dated August 15, 1997, which disputed the Commission's findings, as a motion for rehearing. Oral argument on this matter was heard September 9, 1997.

From consideration of the record made, the oral arguments made and authorities cited, the facts developed show:

(1) Applicant has been in the household moving business for approximately seven of the past eight years competing with existing movers.

(2) He acknowledges he was not properly licensed and did not have a tariff on file with the Commission and pleads ignorance of these requirements. He now seeks to comply with the law and submit to Commission jurisdiction.

(3) During the time he operated, however, he, in fact, was charging less than the tariffed movers.

(4) Both protestants at the oral argument stated that they would not protest the filing of an applicant for a grandfathered mover authority who had filed by the April 21, 1997, date.

(5) Applicant's business has been primarily that which was previously exempt. He does other exempt moving of office and business equipment.

From these facts, the Commission concludes that the application should have been granted, but with a territorial limitation of five miles outside the limits of Omaha. While applicant was not properly licensed, he clearly was competing with other movers. Proper licensing requires him to charge the tariffed rate on file which gives him less of a competitive advantage. The protestants are

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better served by a grant of this application which will have the effect of forcing the applicant to compete on a level playing field, competing with service without the advantage of a lower rate. A certificate should have been granted authorizing operations as follows:

Transportation of household goods between points in and within a five-mile radius of Omaha over irregular routes.



O R D E R

IT IS, THEREFORE, ORDERED, by the Nebraska Public Service Commission that the Motion for Rehearing and/or Reconsideration filed in Application M-14140 be, and it is hereby sustained in part and overruled in part and the order of August 12, 1997, entered in Application M-14140 be, and it is hereby, modified in accordance with the foregoing findings.


MADE AND ENTERED at Lincoln, Nebraska, this 23rd day of September, 1997.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

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


Chairman

ATTEST:


Executive Director

COMMISSIONERS DISSENTING:

//s//Daniel G. Urwiller