

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application of ) Application No. M-14160  
Movers Not Shakers LLC d/b/a Movers )  
Not Shakers, Omaha, seeking )  
authority as a common carrier in ) GRANTED  
Nebraska intrastate commerce in the )  
transportation of household goods )  
in and within a five-mile radius of )  
Omaha over irregular routes. ) Entered: June 20, 2000

BY THE COMMISSION:

By application filed with the Commission on February 17, 2000, Movers Not Shakers LLC d/b/a Movers Not Shakers, of Omaha, Nebraska, seeks authority as a common carrier in Nebraska intrastate commerce in the transportation of household goods in and within a five-mile radius of Omaha over irregular routes. Notice of the application was published in The Daily Record, Omaha, Nebraska, on February 18, 2000, pursuant to Commission rules. Protests to the application were timely filed by Two Men and a Truck, Vaughn Moving, Gordon Moving & Storage Co., Inc., Chieftain Van Lines, Inc., and Mike's Moving, Inc.

On May 8, 2000 a video hearing was held in the Commission Library, in Lincoln, Nebraska. Appearing on behalf of the Applicant was Jack Shultz, of Lincoln, Nebraska. Shanicee Knutson appeared as a staff attorney on behalf of the Commission.

E V I D E N C E

Applicant produced eight witnesses in support of its application.

Gary Jacobsen, the owner and the sole member of the limited liability company, Movers Not Shakers, LLC, d/b/a Movers Not Shakers testified that he has had approximately four years of experience in the moving business. He has worked with various van lines on an independent basis. He testified that he had made arrangements to lease equipment until he is able to purchase a straight truck of his own. He testified that to begin with, he would have a total of three employees. He will have two numbers available for customers to reach him. He testified that he will be able to be reached at any time. He testified that he would advertise in the telephone directory, by word of mouth, and contacts he has in the industry.

He testified further that he had capital available to operate

the proposed business, not only from his own assets, but from family members and other potential investors. He owned the moving equipment which he currently uses for commercial moves. Mr. Jacobsen further testified that if the application was granted, he would procure and maintain the appropriate level of cargo and liability insurance in compliance with Commission rules.

Mr. Jacobsen testified that he believes public convenience and necessity requires that another carrier be authorized to serve the territory he is seeking because to the best of his knowledge there were no companies in operation that actually have an owner present on the job site performing the work. He believes offering this distinct type of service would provide a higher level of care and accountability. Mr. Jacobsen further testified that he has personally received a number of calls requesting that he make local household goods moves, evidencing a need for the proposed service.

Marie Losole testified that she had used Mr. Jacobsen's moving services on prior occasions for her business. She testified that she found him to be a careful and personable mover.

Mary Winey testified that she was the property manager for Excel Construction and Development where she leased apartment units. She stated that she leased approximately forty apartments per month and part of her job included providing people with advice on available movers in the city. She testified that she has had a number of complaints about movers in the past. She further testified that in her opinion there were not enough qualified and professional movers in the Omaha area.

The next witness who testified in favor of the application was Jim Fearnow. He testified that he moved from one part of Omaha to another approximately a year and a half ago. He testified that he contracted with a local mover. He further testified that he was unhappy with the movers he had hired because of the damage they caused to his driveway. According to his testimony, the moving company refused to give any payment adjustment for the damage to his property. He testified that he thought a professional mover that would have known not to drive a truck that size onto the driveway. He further testified that the moving company lacked customer service skills and refused to compensate him for the damage.

Richard Breese testified he moved from one apartment to another in November of 1993. He testified that he was unhappy with the movers he hired. He stated that the movers complained about having to move them on that particular Saturday. He stated that the

movers were hostile and that his wife felt very threatened by them. He further testified that he moved in August of 1998. According to him, the movers were unprofessional and lacked customer service skills as well.

Stephanie Juett testified that she moved from one apartment to another in May of 1999. She stated that she was unhappy with her move. She had told the movers that she only had four hours in which to move the heavier items from one place to another. Ms. Juett stated that the movers showed up with too small of a truck. She testified that their moving methods were inefficient and that she was forced to supervise the movers. She testified further that the company lacked customer service skills when she called for replacement movers. Ms. Juett stated that she was forced to call her family to help her finish the move. She testified that she would use Mr. Jacobsen for her next move.

Tom Coffey, President of Ford Van Lines, Inc., testified that he has known Mr. Jacobsen for three years. He testified further that Mr. Jacobsen had worked for them on various occasions. He stated that Mr. Jacobsen had been a capable employee. In his opinion, there were not enough movers with authority within the city of Omaha for at least the next three months. He testified that a quality local mover would be a welcome addition and benefit to the industry. Mr. Coffey testified further that if Mr. Jacobsen did a good enough job, he would stay busy 12 months out of the year.

Joseph A. Villella testified that he moved a family member to their home from an apartment. He testified that someone from the company came out to the site to give them a dollar figure and then contracted the move. He testified that instead of the two-man move agreed upon by the parties, three men came to do the job. He testified further that he was billed for a three-man move. He testified further that the company lacked professionalism.

Diana Evans testified that she took a survey regarding the availability of movers in the city of Omaha. She testified that she contacted six moving companies. The six companies she surveyed all had restrictions on the time and days of the move. She further testified that the first available date for most of these companies was eight days from the date of inquiry. For some of the companies, she testified, there was a longer wait. Ms. Evan testified that none of the movers surveyed could move her in the evening, and rarely could they move her on a weekend.

Three witnesses testified on behalf of the Protestants. These witnesses testified as follows:

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John Wavra, president of Allied-Gordon Moving and Storage Company of Omaha, testified that there were currently 31 permit holders in the marketplace. He testified that the Omaha market could not support another mover during the winter months. He testified that he had employees sweep his warehouse at times because business was slow.

Upon cross-examination, Mr. Wavra testified that less than ten percent of his gross revenues came from moves within Omaha and a five-mile radius. He testified that adding movers to the marketplace would negatively impact his business because of the uneducated consumer who, without research, selects only one name from the Yellow Pages. He testified further that he protests all applications for local authority.

Dennis Leslie, vice president of Chieftain Van Lines, testified that he concurred with Mr. Wavra's testimony. Mr. Leslie also stated that, in his opinion, the applicant would not be financially able to start the proposed business. Upon questioning, Mr. Leslie testified that he did not know what portion of the overall business was local in nature. He further testified that in the summer months, another entry would probably not impair his company's operations, however, he could not predict that to a certainty.

Eileen Marrison, the owner of Two Men and a Truck, testified that there was not a need for another local moving company. She further testified that if Mr. Jacobsen tried to rent a truck in the busier months, that he wouldn't be able to. She testified that he would have the same problems meeting the consumers' demand for availability as all the other authorized movers have.

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

Neb. Rev. Stat. section 75-311(1)(Reissue 1996), reads in pertinent part:

A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the applicant 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 will be required by the present or future public convenience and necessity. Otherwise the application shall be denied. \*\*\*

The evidence adduced at hearing demonstrates the applicant has

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considerable experience in the moving industry. The evidence also shows that applicant has made the necessary preparations to begin operations as a mover of household goods. The applicant owns most of his own equipment and has made arrangements to procure the additional needed equipment. The financial information presented confirms that the applicant is financially sound. The Commission finds from the facts appearing in the record that the applicant is fit, willing and able to perform the services proposed in accordance with Neb. Rev. Stat. Section 75-311(1)(a) (Reissue 1996).

The Commission also finds the applicant's proposed service and the requested service territory is needed and necessary to meet public demand existing in the Omaha market. The testimony as a whole, supports the finding that public need is not being met by the number of moving companies in Omaha. However, it was particularly apparent with respect to the peak moving seasons when the general public needs movers who are readily available. Further, the witnesses testifying in support of the application confirmed the need for more adequate and satisfactory moving services in the Omaha metro area. A number of witnesses produced evidence that various moving companies operating in the Omaha area were inadequate and unsatisfactory. These witnesses testified specifically as to the lack of professionalism and poor customer service skills of the moving companies.

Therefore, 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 to properly perform the service of a common carrier by motor vehicle 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:

#### AUTHORITY SOUGHT

Authority as a common carrier in Nebraska intrastate commerce in the transportation of household goods in and within a five-mile radius of Omaha over irregular routes.

#### CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

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Authority as a common carrier in Nebraska intrastate commerce in the transportation of household goods in and within a five-mile radius of Omaha 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 No. M-14160 be, and it is hereby, granted; and that a certificate shall be issued to Movers Not Shakers LLC d/b/a Movers Not Shakers, Omaha, authorizing the services of a common carrier of household goods as set forth.

IT IS FURTHER ORDERED that applicant shall not be issued a 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 Section 75-305 (fees), 75-307 (insurance), and 75-308 (rates), R.R.S. 1943, as amended, 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 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, this 20<sup>th</sup> day of June, 2000.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

*Robert E. Johnson*

*Frank E. Landis*

//s//Frank E. Landis

*Frank J. Jander*  
Chairman

ATTEST:

*Robert G. Logsdon*  
Executive Director