

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re Robert R. Logsdon, Director )  
of the Nebraska Public Service )  
Commission Transportation )  
Department, )  
Complainant, )  
vs. )  
P & M Moving, and Capitol )  
Enterprises, Inc. (M-13366) )  
Defendants. )

MOTOR CARRIER  
COMPLAINT  
MCC-3067

FILED

OCT 22 1992

EXECUTIVE DEPT.  
NEBRASKA PUBLIC SERVICE COMMISSION

COMES NOW Robert R. Logsdon, complainant, pursuant to Neb. Rev. Stat. Section 75-322.02 R.R.S. 1943 (1990 Reissue), and for complaint against defendants, alleges:

1. Complainant is the Director of the Transportation Department of the Nebraska Public Service Commission (Commission) and is the custodian of the Transportation Department's documents and records.

2. Defendants are motor carriers based in Bellevue, Nebraska, conducting for-hire intrastate carriage in the State of Nebraska. Examination of the Transportation Department's records and documents reveals that defendant, P & M Moving, does not have authority, either by certificate or permit, to conduct for-hire intrastate carriage, nor is P & M Moving leased to any regulated intrastate motor carrier with the requisite authority. Defendant, Capitol Enterprises, Inc. does possess a permit of authority to conduct intrastate contract carriage of telephone equipment, tools and computers, and materials and equipment used in the construction, installation, and maintenance of telephone systems, all under contract with AT&T between points in Nebraska over irregular routes. Capitol Enterprises, Inc. has no authority to conduct for-hire intrastate carriage of household goods.

3. Defendants willfully violated the Nebraska statutes and the rules and regulations of the Nebraska Public Service Commission by shipping household goods in Nebraska intrastate commerce for compensation without authority when on or about October 3, 1992, P & M Moving transported household goods from 2312 North 51st in Omaha, Nebraska, to Ginger Cove near Valley, Nebraska, for a fee of \$754.00 in a vehicle placarded to Capitol Enterprises, Inc. and licensed to MTP Irrevocable Family Trust.

4. Defendants' shipment of household goods described above was in violation of Neb. Rev. Stat. Section 75-309, as amended, for operating as a common carrier without a certificate of authority issued by the Public Service Commission.


5. Defendants also violated household goods Tariff 7-D prescribed by the Commission pursuant to Neb. Rev. Stat. Sections 75-124, 75-308, and 75-126 (1)(e), for nonconformance in charging the applicable tariff rate established for household goods movements outside the exemption applicable in Section 75-303(4).

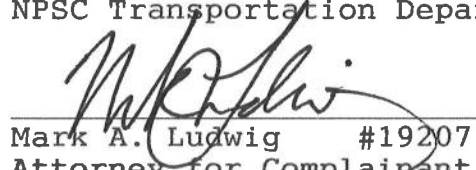
6. The vehicle used by defendants to complete the move complained of above is registered to MTP Irrevocable Family Trust and not to defendants; therefore, defendants further violated the Commission's Motor Carrier Rules and Regulations, to wit, Title 291, Chapter 3, Rule 008, for failing to file equipment leases with the Commission showing operation of said vehicle by P & M Moving or Capitol Enterprises, Inc.

7. On July 29, 1992, defendant P & M Moving was warned by Commission Inspector John Foral and then Rate Auditor Robert Logsdon to cease transporting household goods outside the five-mile exemption provided for under Section 75-303(4).

WHEREFORE, complainant prays the Commission for an order levying a civil penalty against defendants pursuant to Neb. Rev. Stat. Section 75-322.02, as amended, and Title 291, Chapter 1, Rule 027.02 of the Commission's rules in an amount not less than one thousand dollars (\$1,000.00) and any other order the Commission deems appropriate and which is within its jurisdiction to render, including, but not limited to, an order that the defendants cease and desist from further operating outside the scope of any exempted or permitted authority.

DATED this 22 day of October, 1992.

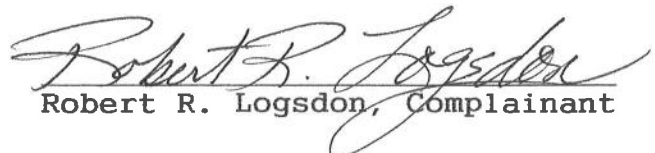
  
Robert R. Logsdon  
Complainant  
NPSC Transportation Department

  
Mark A. Ludwig #19207  
Attorney for Complainant  
P.O. Box 94927  
Lincoln, NE 68509  
(402) 471-3101

VERIFICATION

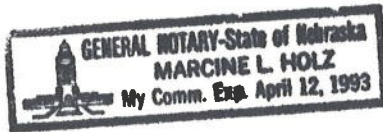
STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF LANCASTER )

Robert R. Logsdon, being first duly sworn on oath, deposes and says that he is the duly appointed and qualified Director of the Transportation Department of the Nebraska Public Service Commission; that he is the Complainant in the foregoing pleading; that he has read the allegations contained therein and understands them to be true to the best of his knowledge and belief.

  
Robert R. Logsdon, Complainant

Subscribed and sworn to before me this 22nd day of October, 1992.

S E A L



Marcine L. Holz  
Notary Public

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing complaint was served on the defendants, P & M Moving and Capitol Enterprises, Inc., 1710 North Bellevue Boulevard, Bellevue, Nebraska 68005, by certified mail, return receipt requested, this 22nd day of October, 1992.

Mark A. Ludwig  
Mark A. Ludwig

NOTICE

1. Pursuant to Title 291, Ch. 1, Rule 027.03A(5), defendant is hereby notified that the Commission will set a hearing date for this complaint and give notice to the defendant of said date and location of the hearing. Defendant is further notified that failure to file an answer to this complaint within twenty (20) days from the date of service will be construed as an admission of the allegations stated therein.
2. Failure by the defendant to file an answer or to appear at the hearing allows the Commission to (a) immediately enter an order assessing a civil penalty as provided for by law, or (b) to proceed with the hearing and receive evidence of the alleged violation(s) and thereby assess civil penalties as provided for by law.
3. Upon failure to pay any civil penalty determined by the Commission, such civil penalty unpaid shall constitute a debt to the State of Nebraska and be collectible by civil action in the District Court of Lancaster County, Nebraska.