

Application No. PI-3

-1-

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In re	)	Application No. PI-3
)	
Nebraska Public Service	)	Petition for Commission
Commission Investigation	)	Investigation to deter-
of Intrastate Garbage	)	mine whether garbage
Transportation Regulation	)	hauling should be con-
	)	sidered common carriage
	)	of property subject to
	)	intrastate regulation.
)	
	)	PETITION GRANTED
	)	AND ORDER TO
	)	PROCEED WITH HEARING
)	
	)	Dated: Dec. 19, 1991

BY THE COMMISSION:

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

Petitioner Wayne F. Rowe alleges in his petition that the Commission's Motor Carrier Rules and Regulations require that common or contract carriers of property shall not operate upon any public highway in the State of Nebraska without having first obtained from the Commission a certificate or permit of authority.

Petitioner further alleges that garbage, especially recycled or recyclable garbage, may under certain conditions constitute property as defined by the Motor Carrier Act and therefore be subject to intrastate regulation when such garbage is transported outside the five-mile exemption provided for in Section 75-303(4) R.R.S. 1943 (1990 Reissue).

Petitioner states that this Commission has previously granted certificates of authority to common carriers for the intrastate transportation of garbage. An application for such authority is now pending before the Commission wherein Auburn Haulaway, Inc. (M-13773) is requesting authority to transport solid waste materials between points in Nebraska over irregular routes.

We find that an investigation should be conducted to formally address the Petitioner's allegations and thereby determine whether garbage should be a regulated commodity with respect to its transport in intrastate commerce.

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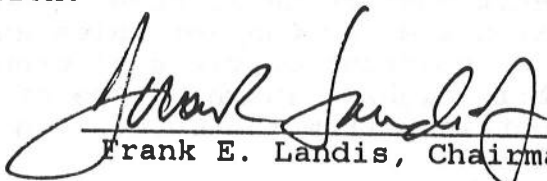
-2-

We further find that the investigation should be held in conjunction with the pending application of Auburn Haulaway, Inc. Accordingly, the petition should be granted and a consolidated hearing on this matter and the pending application of Auburn Haulaway, Inc. (M-13773) be held.

O R D E R

IT IS ORDERED that the petition be granted and that a hearing on this petition be held with evidence presented and arguments made by all interested parties as to whether the intrastate transportation of garbage should be regulated according to the Commission's rules and regulations and by its authority under state law.

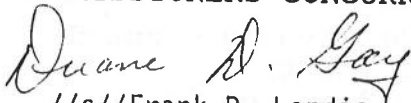
IT IS FURTHER ORDERED that the investigation hearing be held in conjunction with the hearing on the application of Auburn Haulaway, Inc. (M-13773) for authority to transport solid waste materials between points in Nebraska over irregular routes. Notice of the hearing shall be published in the Daily Record and the applicant shall also receive notice of the hearing on this petition, the date on which it is to be held, and a copy of the petition.


Frank E. Landis, Chairman

ATTEST:


Dwight Wininger
Executive Director

COMMISSIONERS CONCURRING:


//s//Frank D. Landis
//s//James F. Munnelly
//s//Eric Rasmussen
//s//Daniel Urwiller