

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In Re)	APPLICATION PI-3
)	
)	
Nebraska Public Service)	
Commission Investigation)	Petition for
of Intrastate Garbage)	Commission
Transportation Regulation)	Investigation

COMES NOW Wayne F. Rowe, Petitioner, on behalf of the Nebraska Public Service Commission Transportation Department and, as an interested person pursuant to Section 75-118.01 R.R.S. 1943 (1990 Reissue) and by Rule 012 et seq. of Chap. 1, Title 291, the Nebraska Public Service Commission Rules of Procedure, petitions the Commission to order a hearing and determine whether garbage hauling should be considered private or common carriage and whether certain forms of garbage constitute "property" within the meaning of the Motor Carrier Act, making such garbage therefore subject to intrastate transportation regulation by the Commission.

Petitioner alleges as follows:

1. Rule 002.01 of Chap. 3, Title 291, of the Nebraska Public Service Commission Motor Carrier Rules and Regulations, states that "unless exempted by statute, a motor common or contract carrier of **property** or passengers shall not operate any motor vehicle for the transportation of **property** or passengers for hire on any public highway in this state except in accordance with Chapter 75, articles 1 and 3 of the Nebraska statutes, as amended, and with the provisions of these rules. A motor common or contract carrier of **property** or passengers shall not operate upon any public highway without first having obtained from the commission a certificate or permit of authority. . ." (Emphasis added)
2. If garbage hauling is considered common carriage, transportation of garbage outside the five mile exemption provided in Section 75-303(4) R.R.S. 1943 would be subject to regulation, assuming garbage constitutes "property" as defined by the Motor Carrier Act. Recycled or recyclable garbage may have value and thereby be considered "property" for purposes of regulation.
3. The Commission has previously granted certificates to common carriers requesting authority to transport garbage intrastate. Such an application is now pending before the Commission by Auburn Haulaway, Inc. (M-13773) for authority to transport solid waste materials between points in Nebraska over irregular routes.

WHEREFORE, Petitioner prays the Commission set this matter for hearing, serve legal notice on applicant Auburn Haulaway, publish notice of hearing according to its rules, and determine whether intrastate transportation of garbage is private carriage and exempt from regulation, or in the alternative, common carriage of property and therefore subject to the Commission's regulatory authority.

Dated this 19th day of December, 1991.



Wayne F. Rowe, Petitioner
Transportation Department
Public Service Commission

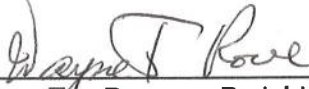


Mark A. Ludwig #19207
Attorney for Petitioner

V E R I F I C A T I O N

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

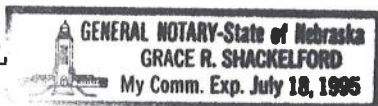
COMES NOW Wayne F. Rowe and under oath says that he is the Petitioner in the above captioned matter, that he has read the allegations contained in the petition, and understands them to be true to the best of his knowledge and belief.



Wayne F. Rowe, Petitioner

Subscribed and sworn to before me this 19th day of December, 1991.

S E A L




Notary Public