

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Application) APPLICATION NO. TR-197
Of Servant Cab Company LLC,)
Lincoln, seeking authority to) DENIED
amend its rates and charges)
)
) ENTERED: JANUARY 13, 2015

APPEARANCES:

For the Applicant:
Jack Shultz
P.O. Box 82028
Lincoln, Nebraska 68508

For the Protestant:
Andy Pollock
1201 Lincoln Mall #102
Lincoln, Nebraska 68508

For the Commission:
Mark Breiner
300 The Atrium Building
1200 N Street
Lincoln, Nebraska 68508

BY THE COMMISSION:

By application filed April 29, 2014, Servant Cab Company, LLC, d/b/a Yellow Cab and Capitol Cab, seeks approval to amend its rates as follows:

Description	Rate
Any individual, group, business or governmental entity which purchases Ten (10) or more trips in a single day (0-5 miles)	\$38.00
Each additional mile or part thereof	\$2.00

The Applicant requested that the proposed rates be approved on an emergency basis. The Commission entered an Order on May 6, 2014, that denied the Application on an emergency basis and ordered that the Application should be processed pursuant to Commission Rules.

Notice of the Order Denying the Application on an emergency basis appeared in the Daily Record, Omaha, on May 12, 2014. On May 16, 2014, a protest was filed by Transport Plus of Lincoln. On May 23, 2014, a protest was filed by Happy Cab Company, Checker Cab Company, Yellow Cab Company, DonMark Inc., d/b/a Cornhusker Cab Company, and by Valor Transportation Company,

d/b/a Safeway Cabs, all of Omaha, through their attorney Andrew Pollock. A hearing on the application was held on September 30, 2014, at the Public Service Commission. Notice of this hearing was sent by U.S. Mail on September 17, 2014, to the interested parties. A withdrawal of its protest was filed by Transport Plus of Lincoln.

Mr. Kirby Young was called by the Applicant. Mr. Young is the managing member of the Applicant. He is responsible for the general oversight of the operations of Servant Cab Company. He testified that the Applicant currently operates over its entire certificated area and that all of its vehicles are equipped with meters.

Mr. Young stated that the rate that the Applicant is requesting is that any individual, group, business or governmental entity which purchases ten or more trips in a single day would pay \$38 for a trip of up to five miles, and \$2.00 per mile after that. It was filed because the Applicant wanted to be reimbursed the same as other companies are being reimbursed by the state of Nebraska. He said that he believed that the Applicant was being harmed by not being allowed to charge this rate. Mr. Young said that he knew of other carriers that had requested this rate and had the rate granted on an emergency basis while this application was denied.

The Applicant currently has a \$16.98 per trip maximum charge in the city of Lincoln for ambulatory individuals under its contract with the Department of Health and Human Services. The proposed rate is such that a five mile trip could be paid up to \$38 plus up to \$2.00 per mile after the first five miles.

Mr. Young said that the last two years, under its contract with the Department of Health and Human Services, that the Applicant has been paid its published meter rate up to a maximum fare. He believes that the Applicant is disadvantaged as to other carriers as those carriers can be reimbursed at the higher HHS rate than the maximum currently allowed to taxi companies. Mr. Young estimated that twenty percent of his company's trips for ambulatory people were under the cap and sixty to seventy percent of the wheelchair trips were under the cap.

Mr. Pollock then inquired as to Rule 11.01F of the Commission's rules. He reviewed that the rule states that taxi service shall have charges of a metered, mileage based or per fare trip according to the provisions of Rule 11.01F. Mr. Young noted that there is not an exemption for HHS.

On examination by Commissioner Landis, Mr. Young said that he believes that the rules of the Commission can be interpreted so that the meter is to be in the vehicle as approved by the Commission, but that the meter is not required to be used by the provider. He said that there is no specific language in the rules that require the use of the meter.

Jamie Chambers testified next for the Applicant. Ms. Chambers is the Program Conscience Manager for Intelliride. Intelliride is the broker for transportation for the Nebraska Department of Health and Human Services. She ensures compliance with Medicaid and HHS rules and regulations. Ms. Chambers discussed how a carrier can become eligible to provide service under contract with HHS.

Ms. Chambers stated that the reimbursement rates were set by HHS and are in line with federal regulations. The company uses an internet mapping system to determine the most direct route and then pays mileage based upon that selected route. Ms. Chambers did confirm that providers can and are paid at less than their published rates, and that some providers can end up being paid more for the same trip based upon the rates set by HHS.

John Davis, Director of Operations for the Protestants, testified next. Mr. Davis reviewed the flat rate situation between Eppeley Airfield and the Omaha area hotels. The flat rates to the hotels are based upon the most direct route to the hotels and reflect that the faster route may not be the most direct route. If the passenger decides to make intermediate stops, then the flat rate does not apply.

Mr. Davis said that the rates proposed by the Applicant are higher than the rates used by his companies. He is not certain that his companies would use the rates if they were approved in this application. He believes that his companies may not be affected by the proposed rate but that the general public probably would be negatively affected. He stated that he believes that this is a "passive way" for the Applicant to have a higher wheelchair rate. The Protestants have two wheelchair vans operating in Omaha, and both are operating at their published rate.

On cross examination by Andy Pollock, Mr. Davis testified that his companies perform service for HHS through Intelliride at their metered rate. HHS pays them up to a \$16.98 maximum payment. The Protestants accept trips up to about ten miles for HHS due to this cap.

On redirect by Mr. Shultz, Mr. Davis said that he believes that communities of 15,000 or more need to be using a meter for their charges.

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

A hearing on the application was held by the Commission. The Commission received information and testimony regarding the basis of the application.

At issue in this application is the appropriateness of the proposed rate in the operations of the Applicant, Servant Cab Company. Servant Cab holds a taxi service certificate of authority. The rates of a taxi provider are subject to the definition of taxi service. In particular, the definition of taxicab service found in Rule 010.01A includes the following language:

Taxi service shall consist of all of the following elements:

- (i) the business of carrying passengers for hire by a vehicle, subject to the provisions of Rule 011.01D, (ii) along the most direct route between the points of origin and destination or a route under the control of the person who hired the vehicle and not over a defined regular route, (iii) on a prearranged or demand basis, (iv) at a metered, mileage based or per trip fare according to the provisions of 011.01F, (v) commencing within, and/or restricted to, a defined geographic area.

Taxi service is specifically defined to be operated pursuant to Rule 011.01F. Rule 011.01F states that carriers who operate in municipalities of 15,000 or more are to be equipped with taximeters. The Commission may require any carrier operating in any community with less than 15,000 to have taximeters, but those operating on populations over 15,000 must have a taximeter.

A reading of Rule 010.01A states that a taxi service provider shall provide its service "at a metered, mileage based or per fare trip according to the provision of Rule 011.01F". In the proposed rate, the Applicant is requesting to charge a flat \$38.00 to any individual, group, business or governmental entity which purchases Ten (10) or more trips in a single day." The proposed rate is not based on a metered, mileage based rate or per fare trip according to the provisions of Rule 011.01F.

The Applicant was not able to show any instance where a company providing similar service to the Applicant had a rate

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similar to the one proposed. The Applicant did point to open class providers that had similar rates approved by the Commission, including the same rate granted to Golden Plains Services Transportation (GPS), a company with a common owner with the Applicant in Kirby Young.

However, GPS is a company that holds open class authority. Open class authority's definition does not include the language regarding meters that is in the definition of taxi service. Open class does not include language related to "a metered, mileage based or per trip fare according to the provisions of 011.01F," but only that the charge is to be mileage or per trip based. The open class definition does provide for trips to be charged at a per fare trip.

The request by the Applicant in this application is not one that is consistent with the rules and regulations of the Commission. The Applicant operates in a community of more than 15,000. It is required to be equipped with a meter. The proposed rate is not one that is based on mileage or would use the meter. This rate would violate the rules by having a taxi service operator be allowed to charge a fare that is not consistent with the requirements of a metered, mileage fare pursuant to Rules 010.01A and 011.01F. The Commission therefore finds that the proposed rate should be denied.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application TR-197 to amend the rates as proposed is hereby denied.

MADE AND ENTERED at Lincoln, Nebraska, this 13th day of January, 2015.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Tim Schwan
Cystal Kuadas
Reg Jones

//s//Frank E. Landis
//s//Gerald L. Vap

Chairman

Gerald L. Vap

ATTEST:

Steve Meradith
Executive Director