

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the)	Application No. B-2094
Application of Rhino Medical)	
Transportation Service, LLC,)	
Omaha, seeking authority as a)	
common carrier in Nebraska)	
intrastate commerce in the)	ORDER APPROVING APPLICATION
transportation of passengers)	
in Open Class service by van)	
in and between points within)	
Douglas and Sarpy counties)	
over irregular routes. HHS)	
Designation: Yes.)	Entered: April 16, 2024

BY THE COMMISSION:

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

On January 8, 2024, Rhino Medical Transportation Service, LLC ("Applicant"), Omaha, Nebraska, filed an application seeking authority as a common carrier in Nebraska intrastate commerce in the transportation of passengers in Open Class service by van in and between points within Douglas and Sarpy counties over irregular routes. HHS Designation is requested.

Notice of the application was published in The Daily Record, Omaha, Nebraska, on January 12, 2024. No protests were filed; therefore, the application was processed pursuant to the Commission's Rule of Modified Procedure.¹

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

Applicant is a Nebraska Limited Liability Company with its principal place of business in Omaha, Nebraska. Applicant seeks to provide transportation of passengers by van in Open Class service in Douglas and Sarpy counties. Although Applicant intends to focus on providing Medicaid non-emergency medical transportation ("NEMT") services through a contract with DHHS, Applicant intends to also provide transportation services to the general public.

The statutory standard governing the approval of applications for common carrier authority is as follows:

¹ 291 Neb. Admin. Code Ch. 1 § 002.10B.

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. B-2094

Page 2

A certificate shall be issued to any qualified applicant authorizing the whole or any part of the operations covered by the application if it is found after notice and hearing that (a) the Applicant is fit, willing, and able properly to perform the service proposed . . . and (b) the proposed service, to the extent to be authorized by the certificate, whether regular or irregular, is or will be required by the present or future public convenience and necessity. Otherwise, the application should be denied.²

The Nebraska Supreme Court has explained the analysis required for determining public convenience and necessity:

In determining public convenience and necessity, the deciding factors are (1) whether the operation will serve a useful purpose responsive to a public demand or need, (2) whether this purpose can or will be served as well by existing carriers, and (3) whether it can be served by the Applicant in a specified manner without endangering or impairing the operations of existing carriers contrary to the public interest.³

In its application, Applicant described that many Omaha providers struggle to maintain a consistent level of availability and develop individualized care plans leading to inadequate responses to mobility needs. Applicant further explained that the sought after territory was chosen to concentrate efforts to develop "an in-depth understanding of the unique needs, demographics, and healthcare infrastructure of the Omaha area." Applicant stated that this approach allows for a more tailored approach to the community sought to be served as well as allowing the company better oversight and control over quality of services.

Pursuant to the Commission's Rule of Modified Procedure, the Applicant has provided an Affidavit of Applicant and an Affidavit of Supporting Shipper. In the Affidavit of Applicant, Applicant indicates it will utilize a 2018, handicapped accessible, Chrysler minivan in its operations. Applicant affirms its vehicle will be properly maintained and repaired to ensure it meets safety requirements. Applicant further provided an Affidavit of Supporting Shipper stating that the reputation of the Applicant is "reputable and integrity driven". Further, the Affiant discussed the Applicant's extensive history as a nurse assistant and

² Neb. Rev. Stat. § 75-311(1).

³ *In re Application of Nebraskaland Leasing & Assocs.*, 254 Neb. 583, 591 (1998).

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. B-2094

Page 3

Applicant's experience in managing and scheduling patient and passenger transportation. The Affidavit further indicates that there is a lack of available providers that utilize handicap accessible vehicles. Moreover, the Affiant stated that many companies in the Omaha area only operate during regular business hours which makes it difficult on its clientele to find transportation.

The Commission also received input from the Nebraska Department of Health and Human Services' Medicaid and Long-Term Care Division that the Applicant is or will be required by the present or future convenience and necessity to serve the distinct needs of Medicaid clients within their requested territories.

After due consideration of the evidence and being fully advised in the premises, the Commission is of the opinion and finds:

1. Applicant is fit, willing, and able properly to perform the proposed service, and to conform to the provisions of Neb. Rev. Stat. §§ 75-301 to 75-322 (Cum. Supp. 2020) and the requirements, rules and regulations of the Commission thereunder.
2. Upon compliance with Neb. Rev. Stat. §§ 75-305 (fees), 75-307 (insurance), and 75-308 (rates) (Cum. Supp. 2020), and with the rules and regulations of the Commission, a Certificate of Public Convenience and Necessity should be issued as proposed:

CERTIFICATE AUTHORIZED

SERVICE AND TERRITORY AUTHORIZED:

Common: Transportation of passengers in Open Class service by van in and between points in Douglas and Sarpy counties over irregular routes. HHS Designation: Yes.

3. The application for authority should be granted.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that Application No. B-2094 be, and it is hereby,

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

Application No. B-2094

Page 4

granted; and that upon compliance with the terms and conditions set forth in this Order, a Certificate of Public Convenience and Necessity shall be issued to Rhino Medical Transportation Service, LLC Omaha, in Application B-2094, authorizing the operations set forth in the foregoing findings.

IT IS FURTHER ORDERED that Applicant shall not be issued the 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 Neb. Rev. Stat. §§ 75-305 (fees), 75-307 (insurance), and 75-308 (rates) 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 FINALLY ORDERED that the operations authorized herein shall be subject to the terms, conditions, and limitations which have been, or may hereafter be prescribed by the Commission.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 16th day of April 2024.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Eric M. Hamler








Chair

ATTEST:


Thomas W. Golden
Executive Director