



9867 Widmer Rd  
Lenexa, KS 66205

*Bryan K. Taylor*  
*Director Safety Risk and Claim*  
*(913) 928-5008*

August 21 2015

Nebraska Public Service Commission  
300 The Atrium  
1200 N Street  
Lincoln, NE 68509

RE: Comments on the 5th proposed rule change to rule and regulation #182

Honorable Commissioners:

Thank you for the opportunity to file comments on behalf of Brown's Crew Car, aka Armadillo Express (Brown's). Brown's Crew Car is a Nebraska contract carrier engaged in transportation of railroad personnel. Brown's employs approximately 230 people throughout the state of Nebraska in 19 locations operating 95 vans.

To the extent any rule or regulation endeavors to make crew hauling safer, Brown's would be in favor and support such regulation. Brown's is committed to the safety of its drivers and passengers, and maintains a rigorous safety program.

The proposed rule change to rule and regulation #182 section 006.02 requiring carriers to maintain \$100,000.00 in uninsured and underinsured (UM/UIM) per person and \$300,000.00 in UM/UIM coverage per accident not only increases costs to transportation providers without improving safety or providing additional benefits, it is also outside the authority of the Nebraska Public Safety Commission (NPSC) based on the Attorney General's opinion issued in March 4, 2015.

The Attorney General's opinion is limited to the discussion of a narrow question regarding the commission's proposed rule to require UM/UIM policies in excess of the maximums allowed in Neb. Rev. Stat. §44-6408(2). The additional issue which is unanswered but contemplated by the Attorney General's opinion is, *does the Commission have the authority to require contract carriers to maintain UM/UIM coverage in excess of minimums required by §44-6408?* Allow me to refer you to footnote 6 on page 10, in Op. Atty. Gen. No. 15003 (March 4, 2015 p.10).

*“Indeed, there is some questions as to whether the Commission may even impose UM/UIM requirements equal to the maximum amounts in §44-6408(2), as the statute contemplates higher limits of UM/UIM coverage being provided [a]t the written request of the named insured...”*

The Commission's authority is limited by Neb. Rev. Stat. §75-301(1). This statute allows the commission to regulate the insurance of contract carriers providing recovery for damages arising from the carrier's negligent operation or use of a vehicle. Uninsured and Underinsured motorist coverage provide for recovery from a vehicle operator who is inadequately insured, not arising from the negligence of the contract carrier. This limitation puts UM/UIM requirements outside the scope of the authority granted to the Commission under §75-301(1), as the increased limits are not by written request of the named insured as required under §44-6402(2).

The NPSC does not have the authority to require UM/UIM limits above what is requested by the insured under Neb. Rev. Stat. §44-6402(2).

As I, and others, have testified many times in front of this committee and the Nebraska Legislature I will merely recap the points of my prior comments and testimony which are still relevant to this rule change

- Requiring uninsured and underinsured coverage will not benefit railroad passengers as the coverage is duplicative of other benefits available to railroad crews. The service agreements transportation providers have with the railroads require providers such as Brown's to indemnify the railroad for damages crew members incur while a passenger in the vehicle, regardless of fault, and independent as to whether the collision is with a driver who is uninsured or underinsured.
- The service agreements between the railroads and the transportation service providers clearly detail safety, insurance and indemnity obligations of the transportation providers. Additionally the Federal Employers Liability Act (FELA) provides an adequate remedy for railroad passengers should an accident occur.

- The cost of this additional coverage would be a burden on existing carriers and a barrier prohibiting other carriers from entering into crew hauling transportation. The significant increase in insurance coverage will increase the cost carriers incur when providing transportation services. Based on information from my insurance broker and underwriter to maintain UM/UIM insurance on our fleet at the levels proposed would cost Brown's \$75.00 per vehicle per year.

Brown's is committed to the safe and efficient transportation of our customers. We have a safety and insurance program in place to proactively protect our drivers and passengers. Brown's is not in favor of the proposed rule change based on the reasons set forth above.

Respectfully submitted,

A handwritten signature in black ink that reads "Bryan Taylor". The signature is written in a cursive style with a large initial "B" and "T".

Bryan Taylor

Director of Safety Risk and Claim