

STATE OF NEVADA

ALAINA BURTENSHAW
Chairman

GEORGE ASSAD
Commissioner

DAWN GIBBONS
Commissioner



DEPARTMENT OF BUSINESS AND INDUSTRY
NEVADA TRANSPORTATION AUTHORITY

MINUTES OF THE October 24, 2017 GENERAL SESSION

AGENDA

1. Call to Order

Chairman Alaina Burtenshaw called the meeting to order at 9:40 a.m.

2. Roll Call

*Present in Las Vegas: Chairman Alaina Burtenshaw, Commissioner George Assad, Administrative Attorney David Newton, Deputy Commissioner Jennifer DeRose, Deputy Attorney General Louis Csoka.
In Reno: Commissioner Dawn Gibbons*

3. Pledge of Allegiance

Chairman Burtenshaw led a recital of the pledge.

4. Public Comment

none

5. Approval of Agenda

Approved 3-0

6. Briefings from the Commissioners

none

7. Briefing from the Deputy Commissioner

none

8. Report of Legal Counsel

none

- 9. 17-03011** Chairman Burtenshaw, the appointed Hearing Officer in this matter, will lead discussion and deliberation of the “Request for Advisory Opinion Pertaining to the Intrastate Charter Bus Service Pursuant to NAC 706.4007,” filed by James Kent, Esq., and any materials filed regarding this matter.

James Kent, Esquire appeared and summarized the history of the Request before the Authority. He stated there were three aspects to the request – the no staging or standing limitation, no “kellying” and tariff requirements. Mr. Kent detailed the uneven imposition of the “no staging or standing” restriction upon charter bus applicants and discussed the economic impact on the carriers. He argued the “kellying” language is irrelevant as the term is undefined in the NAC, it means different things to different people and as there was no administrative process by the Authority prior to the insertion of the language, it is ad hoc

rulemaking and should be void or vacated. Third, the tariff requirements should be revisited with a minimum tariff, a broader range and possible surge pricing similar to the TNC's to allow better coverage.

Kimberly Maxson-Rushton, Esquire appeared on behalf of the Livery Operators Association (LOA). She stated the restrictive language began in September and October of 2013 with Commissioner Metz to stop charter buses from operating as limousines and should be maintained on all certificates issued. She states that "kellying" is an industry term of art that means walk up transportation of passengers without a prearranged reservation and if the NTA determines there is a need for further action, it should be done through a regulation workshop instead of an Advisory Opinion to clarify charter bus language. Ms. Rushton argues that the tariff is already flexible, as they can change their rates by simply noticing the new rates to the NTA before they begin operating under the new tariff, there is no need for NTA approval. Charter bus service is not intended to compete with TNCs, and therefore there is no support for the price surging requested.

Brent Bell, President, Bell Trans offered a statement that charter bus operators are illegally competing with TNC's and that this is simply an attempt to further their illegal operations.

Tony Clark, 24/7 Entertainment offered a lengthy statement arguing limousines are held to a higher standard than charter buses. His suggestion is to level the playing field with minimal regulations and the same standards for all carriers.

John Marushok, Frias Transportation agreed with LOA statement.

Alan Waxler, AWG, indicated there is a market for front door or concierge bus service and that there needs to be a consistency in the application of the regulations.

Ibrahim Samb, IBS Transportation states the regulation should be fair for everyone.

Chairman Burtenshaw questioned the definition "pre-arranged" as it appears in both limousine and charter bus regulations. A discussion ensued.

Chairman Burtenshaw questioned the "kellying" language and how does it not violate ad hoc rule making? A lengthy discussion ensued with Mr. Kent and Ms. Rushton participating.

A lengthy discussion ensued with regard to vehicle definitions, size, types of authority and restrictions on types of authority.

Commissioner Assad offered a statement regarding pre-arranged transportation, the influx of charter bus applications and stated the inclusion of the language was not ad hoc rulemaking as the Authority can add any language to any certificate if it feels it is in the public interest. Stated this would be better placed before the legislature.

Deputy Attorney General Csoka stated the matter should be considered in a rulemaking context.

Chairman Burtenshaw stated there would be no vote today, she will do further research and issue an order at a future regularly scheduled Agenda.

10. Public Comment.

James Kent offered to provide any additional information the Chairman might need. Tony Clark, restated his position regarding the use of Sprinters.

11. Adjournment

Meeting adjourned at 12:00 noon.