

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9309

IN THE MATTER OF:

Served February 8, 2006

Application of SUPER TRANSPORT)
INCORPORATED, WMATC No. 989, to) Case No. AP-2005-159
Acquire Assets and Certificate)
No. 432 from MED-CARE)
TRANSPORTATION CORPORATION)

By application accepted for filing September 22, 2005, applicant, Super Transport Incorporated, (STI) WMATC No. 989, seeks Commission approval to acquire a substantial part of the property of Med-Care Transportation Corporation (Med-Care), including WMATC Certificate of Authority No. 432. The application is unopposed.

Notice of the application was published by the Commission in Order No. 9052 on October 17, 2005, and by applicant in a newspaper of general circulation in the Metropolitan District on November 1, 2005. The application is unopposed.

I. APPROVAL OF ACQUISITION

Under Article XII, Section 3(a)(ii) & (c), of the Compact, the Commission may approve the application of one WMATC carrier to purchase a substantial part of the property of another WMATC carrier if the Commission finds the transaction to be in the public interest. The public interest analysis focuses on the applicant's fitness, the resulting competitive balance and the interests of affected employees.¹

The application indicates Med-Care has agreed to sell all of its "properties and rights," including one van and Certificate No. 432, to STI. STI proposes operating that van, along with the eight vans STI already possesses, under Certificate No. 989.² STI's proposed tariff contains rates for transportation under the District of Columbia Medicaid program.

The Commission finds the proposed acquisition consistent with the public interest for the following reasons.

¹ Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at D.C. Code § 9-1103.04 (2005)); *In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd. & Tourtime America Motorcoach, Ltd.*, No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

² Applicant's amended vehicle list also includes three sedans, but inasmuch as applicant proposes no sedan rates, it does not appear that applicant will be operating those under WMATC authority.

First, an existing WMATC carrier is entitled to a presumption of fitness.³ There is nothing in the record to rebut that presumption in this case.

Second, the primary concern when assessing the effect of a transfer on competition is whether the transfer will increase the acquiring party's market share.⁴ Transactions which do not increase market share give little pause for concern, and the Commission will approve even those transactions which tend to increase market share as long as there is sufficient post-transaction competition to check any adverse effects that such transactions otherwise might produce.⁵ The DC Medicaid market in the Metropolitan District is served by more than two hundred WMATC carriers that collectively operate more than four hundred vehicles. Adding Med-Care's one van to STI's existing fleet of eight vans will not appreciably increase STI's market share.

Third, STI states that it will hire all of Med-Care's employees.

II. REVOCATION OF CERTIFICATE NO. 432

Applicant has attached Certificate of Authority No. 432 to the application as Exhibit I. Upon satisfaction of the conditions of approval stated below, Certificate No. 432 shall stand revoked.⁶

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 989 shall be reissued to Super Transport Incorporated, 5601 Seminary Road, #2014N, Falls Church, VA 22041, and Certificate No. 432 shall stand revoked.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 989 has been reissued in accordance with the preceding paragraph.

³ *In re Executive Coach, Ltd., & Executive Sedan Mgmt. Servs., Inc., t/a Washington Car & Driver*, No. AP-02-75, Order No. 6797 (Sept. 3, 2002).

⁴ *In re Mobile Care Specialty Transportation, Inc., t/a Mobile Care, & Ironsides Transport, Inc., & Mobile Care, Ltd.*, No. AP-01-10, Order No. 6178 (Apr. 9, 2001).

⁵ *Id.*

⁶ *See In re Tri State Casino Tours, Inc., & D.A.Y. Enters., Inc., & New World Tours, Inc.*, No. AP-95-36, Order No. 4670 (Sept. 29, 1995) (revoking merged certificate); *In re Carey Limo. D.C., Inc., & ADV Int'l Corp., t/a Moran Limo. Serv.*, No. AP-94-53, Order No. 4499 (Feb. 16, 1995) (same).

3. That applicant is hereby directed to present its revenue vehicle(s) for inspection and file the following documents within the 180-day maximum permitted in Commission Regulation No. 66: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) Certificate No. 989.

4. That the approval herein shall be void, and the application shall stand denied, upon applicant's failure to timely satisfy the conditions herein prescribed.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER, AND SMITH:



William S. Morrow, Jr.
Executive Director

