

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9467

IN THE MATTER OF:

Served April 13, 2006

Application of OUTREACH)
TRANSPORTATION SERVICE, INC., for a) Case No. AP-2005-139
Certificate of Authority --)
Irregular Route Operations)

This application was conditionally approved in Order No. 9197, served December 16, 2005, based in part on applicant's representation that it has no control relationship with an existing WMATC carrier. In fact, applicant is controlled by Andre Tchokouani, trading as Sunshine Transportation Company, WMATC No. 741.

Article XII, Section 3(a)(iii), of the Compact states that a carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means. Approval may be granted if the Commission finds the acquisition is consistent with the public interest.¹ The public interest analysis focuses on the fitness of the acquiring party, the resulting competitive balance, and the interest of affected employees.²

The Commission has uniformly approved common control in the past where the owner of an existing WMATC carrier decides to expand service in the Metropolitan District through a newly created entity.³ In such cases the Commission has held that the controlling party is entitled to a presumption of fitness, that expansion of service through a newly created entity does not raise competition concerns, and that the interests of affected employees are not at issue where an applicant has no prior operations.⁴ Accordingly, we find that the proposed common control is consistent with the public interest.

¹ Compact, tit. II, art. XII, § 3(c).

² Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC CODE ANN. § 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).

³ *In re Capital City Coach, Inc.*, No. AP-05-32, Order No. 8752 (June 1, 2005).

⁴ *Id.*

Each carrier is admonished to keep its assets, books, finances and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.⁵

THEREFORE, IT IS ORDERED:

1. That Case No. AP-2005-139 is hereby reopened on the Commission's initiative.

2. That upon applicant's timely compliance with the requirements of Order No. 9197, Certificate of Authority No. 1143 shall be issued to Outreach Transportation Service, Inc., 7307 Sara Street, New Carrollton, MD 20784.

3. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

4. That the approval of common control herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed in Order No. 9197.

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



William S. Morrow, Jr.
Executive Director

⁵ *Id.*