

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9471

IN THE MATTER OF:

Served April 13, 2006

Application of CROWN CHARTERS &)
TOURS, LLC, WMATC No. 1063, to)
Acquire Assets from SOUTHERN)
COMFORT LINES, INC., WMATC No. 453)

Case No. AP-2005-205

SOUTHERN COMFORT LINES, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 453)

Case No. MP-2005-115B

By application accepted for filing December 16, 2005, Crown Charters & Tours, LLC (Crown), WMATC Carrier No. 1063, seeks Commission approval to acquire substantially all of the assets of Southern Comfort Lines, Inc. (Southern Comfort), WMATC Carrier No. 453.

Certificate No. 453 has been suspended since October 3, 2005, due to Southern Comfort's noncompliance with the Commission's insurance requirements.¹ The Commission initiated an investigation and directed Southern Comfort to show cause why Certificate No. 453 should not be revoked.² These two proceedings will be consolidated pursuant to Commission Rule No. 20-02.

Notice of the application was published by the Commission in Order No. 9252 on January 13, 2006, and by applicant in a newspaper of general circulation in the Metropolitan District on January 18, 2006. 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.³

¹ See *In re Southern Comfort Lines, Inc.*, No. MP-05-115B, Order No. 9020 (Oct. 5, 2005).

² *Id.*

³ Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at D.C. CODE § 9-1103.04 (2006)); *In re Cavalier Transp. Co., Inc.*,

The application indicates Southern Comfort has agreed to sell its three buses and other equipment to Crown. Crown proposes operating the three buses, along with buses it currently owns, under a proposed new charter tariff.

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

First, an existing WMATC carrier is entitled to a presumption of fitness.⁴ 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.⁵ 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.⁶ The market for charter motorcoach and minibus service within the metropolitan area is served by 87 WMATC licensed carriers, that collectively operate approximately 1600 vehicles. Adding Southern Comfort's fleet of three vehicles will not appreciably increase Crown's share of this market.

Third, Crown states that "ninety-five percent of employees will be retained."

II. REVOCATION OF CERTIFICATE NO. 453

Certificate No. 453, was automatically suspended on October 3, 2005, pursuant to Regulation No. 58-02, for Southern Comfort's willful failure to maintain on file with the Commission proof of \$5 million in combined-single-limit, motor vehicle liability insurance as required by Commission Regulation No. 58. Order No. 9020, served October 5, 2005, noted that Certificate No. 453 would be subject to revocation if respondent failed to file the necessary WMATC Insurance Endorsement(s) within thirty days. Southern Comfort has yet to comply.

t/a Tourtime America, Ltd. & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

⁴ 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).

⁵ 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).

⁶ Id.

Accordingly, Certificate No. 453 shall be revoked pursuant to Article XI, Section 10(c), of the Compact for respondent's willful failure to comply with Regulation No. 58.

THEREFORE, IT IS ORDERED:

1. That Case Nos. AP-2005-205 and MP-2005-115B are hereby consolidated pursuant to Commission Rule No. 20-02.

2. That Certificate of Authority No. 453 is hereby revoked.

3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1063 shall be reissued to Crown Charters & Tours, LLC, 7605-B Barbara Lane, Clinton, MD 20735.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 1063 has been reissued in accordance with the preceding paragraph.

5. 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; and (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.

6. 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, SMITH, AND CHRISTIE:



William S. Morrow, Jr.
Executive Director