

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,076

IN THE MATTER OF:

Served November 16, 2006

Application of DIPSON JOEL)
OLUWALOGBON for Approval and)
Temporary Approval of Acquisition)
of Control of SAMFRE TRANSPORTATION)
SERVICES, INC., WMATC No. 774)

Case No. AP-2006-156

By application accepted for filing August 30, 2006, Dipson Joel Oluwalogbon seeks Commission approval under Article XII, Section 3(a)(iii), of the Compact, to acquire all of the outstanding stock of Samfre Transportation Services, Inc., (Samfre), WMATC No. 774. Mr. Oluwalogbon also requests that the Commission grant temporary approval of the proposed acquisition under Article XII, Section 3(d).

Mr. Oluwalogbon is the sole shareholder of Dip & Sons Incorporated, trading as Dip & Sons Transportation Service, (Dip & Sons), WMATC No. 866. Mr. Oluwalogbon has entered into an agreement with Abebe Alemu, the sole shareholder of Samfre, to acquire all of Samfre's outstanding shares. If the acquisition is approved, Samfre will continue performing transportation under the DC Medicaid program using a single van.

Notice of this application was published by the Commission on September 15, 2006, in Order No. 9909, posted on the Commission's website, and served on the District of Columbia Department of Health, Medical Assistance Administration, which oversees the DC Medicaid program. Applicant published further notice in a newspaper of general circulation on September 27, 2006. The application is unopposed.

I. APPROVAL OF ACQUISITION

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 a 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 applicant's fitness, the resulting competitive balance and the interests of affected employees.²

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 D.C. CODE § 9-1103.04 (2006)); *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).

The Commission finds the proposed acquisition consistent with the public interest for the following reasons. First, a presumption of fitness obtains where, as here, the acquiring party already controls a WMATC carrier previously found fit.³ Second, the Medicaid transportation market in the Metropolitan District is comprised of over two hundred fifty WMATC carriers that collectively operate over 250 vehicles. Samfre operates one van. Dip & Sons operates two. Approving this application, therefore, will not appreciably increase applicant's market share, which is the primary concern when assessing the effect of a transfer on competition.⁴ Third, applicant states that there will be no effect on Samfre employees because there will be no change in Samfre's operations.

Each carrier is admonished to keep its assets, books and operations completely separate from the other's. Our approval of this application should not be construed as permission for Samfre and Dip & Sons to share revenue vehicles or operating authority.⁵

II. DENIAL OF TEMPORARY APPROVAL APPLICATION

The Commission may grant temporary approval under Article XII, Section 3(d), without a hearing or other proceeding up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest. The public interest analysis under Section 3(d) includes an assessment of whether denial of temporary approval would cause a diminution in the value or utility of the subject assets.⁶ We need not reach this issue, however. Our approval of the acquisition of Samfre's stock under Article XII, Section 3(a)(iii), renders the application for temporary approval under Article XII, Section 3(d), moot.

THEREFORE, IT IS ORDERED that the application of Dipson Joel Oluwalogbon to acquire control of Samfre Transportation Services, Inc., WMATC No. 774, is hereby approved.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

³ In re Laidlaw, Inc., & Greyhound Lines, Inc., No. AP-98-53, Order No. 5504 (Jan. 22, 1999).

⁴ In re Transportation Centers, Inc. & Fairfax Coach Lines, Inc., No. AP-05-116, Order No. 9308 (Feb. 8, 2006); 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 See Order No. 5504 (same).

⁶ 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).