

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,111

IN THE MATTER OF:

Served November 30, 2006

Application of JOAN MURRELL THOMAS )  
for a Certificate of Authority -- )  
Irregular Route Operations )

Case No. AP-2006-105

This matter is before the Commission on applicant's request for reconsideration of Order No. 9817, served August 10, 2006, which denied without prejudice applicant's application for operating authority.

**I. BACKGROUND**

Under the Compact, an applicant for operating authority bears the burden of establishing financial fitness, operational fitness, and regulatory compliance fitness.<sup>1</sup> To establish operational fitness, an applicant must demonstrate the willingness and ability to provide safe and adequate service.<sup>2</sup>

Applicant submitted an application on June 12, 2006, proposing the transportation of District of Columbia Medicaid passengers using one sedan. The Medicaid transportation rates currently published by the District of Columbia Department of Health, however, are for service in vans only.<sup>3</sup> Accordingly, the Commission found in Order No. 9817 that applicant had failed to meet its burden of demonstrating the ability to provide the proposed service and denied the application without prejudice.<sup>4</sup>

**II. APPLICATION FOR RECONSIDERATION**

Under Article XIII, Section 4(a) of the Compact, a party to a proceeding affected by a final order or decision of the Commission may file within 30 days of its publication a written application requesting Commission reconsideration of the matter involved, and stating specifically the errors claimed as grounds for reconsideration.

Applicant timely filed a request for reconsideration of Order No. 9817 on August 16, 2006. The request does not allege any error on the part of the Commission but states that applicant now possesses a van.

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<sup>1</sup> *In re Felicia E. Medlock*, No. AP-05-077, Order No. 8991 (Sept. 16, 2005).

<sup>2</sup> *Id.*

<sup>3</sup> See D.C. Mun. Regs. tit. 29, § 995(2006).

<sup>4</sup> *In re Joan Murrell Thomas*, No. AP-06-105, Order No. 9817 (Aug. 10, 2006).

Because the application in this proceeding was denied without prejudice to applicant's right to reapply at a later date, it is not clear that Order No. 9817 is a final order within the meaning of the Compact.<sup>5</sup> Applicant has failed to specify any error on the part of the Commission, in any event. Therefore, the request for reconsideration must be denied.

However, considering that applicant has now acquired a van, we may reopen this proceeding on our own initiative pursuant to Rule No. 26-04.<sup>6</sup>

### III. APPLICATION FOR OPERATING AUTHORITY

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant proposes commencing operations with one van under the DC Medicaid program.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed

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<sup>5</sup> See *Bennett v. Spear*, 520 U.S. 154, 177, 117 S. Ct. 1154, 1168 (1997) (to be final, action must mark consummation of agency's decisionmaking process and determine rights or obligations or generate legal consequences); see also *In re Blue Lines, Inc., & All About Town, Inc.*, No. AP-90-33, Order No. 3556 (Sept. 17, 1990) (order granting temporary approval to operate vehicles of other WMATC carrier not final order); but see *In re Vincent Ferguson Gibson t/a Continental Limo.*, Order No. 1742 (Aug. 31, 1977) (order granting temporary authority is final and subject to reconsideration).

<sup>6</sup> See *In re Tilly's Limo. & Sedan Services, Inc.*, No. AP-05-30, Order No. 9312 (Feb. 8, 2006) (reopening record to receive late-filed documents).

transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

THEREFORE, IT IS ORDERED:

1. That this proceeding is hereby reopened pursuant to Commission Rule No. 26-04.

2. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1319 shall be issued to Joan Murrell Thomas, 524 Nicholson Street, N.W., Washington, DC 20011.

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 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.

5. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director