

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,319

IN THE MATTER OF:

Served March 9, 2007

AVERY TRANSPORTATION, LLC, )  
Suspension and Investigation of )  
Revocation of Certificate No. 1111 )

Case No. MP-2006-195

Application of AVERY TRANSPORTATION,) )  
LLC, for Voluntary Termination of )  
Certificate No. 1111 )

Case No. AP-2007-008

Certificate No. 1111 was automatically suspended on December 6, 2006, pursuant to Regulation No. 58-02, for respondent's willful failure to maintain on file with the Commission proof of \$1.5 million in combined-single-limit, motor vehicle liability insurance.

That same day, the Commission served notice on respondent in Order No. 10,135, that Certificate No. 1111 would be subject to revocation if respondent failed to file the necessary insurance endorsement(s), and pay a \$50 late fee pursuant to Regulation No. 67-03(c), within thirty days. Respondent filed an acceptable replacement endorsement on December 14, 2006, but has yet to pay the \$50 late fee.

On January 18, 2007, respondent filed its annual report for 2007, a request for waiver of the \$150 annual fee for 2007, and a request to voluntarily terminate Certificate No. 1111.

The Commission may terminate a certificate of authority under Title II of the Compact, Article XI, Section 10(b), upon application by the holder. The application shall be denied if the carrier is not in good standing with the Commission.<sup>1</sup>

Respondent is not in good standing. Respondent still owes the \$50 late fee under Regulation No. 67-03(c) and the \$150 annual fee under Regulation No. 67-02. Respondent offers no explanation for failing to pay the late fee, and its argument for not paying the annual fee lacks merit.

Respondent argues that the annual fee should be waived because respondent has closed its business. If that were reason enough, the Commission should not have issued numerous orders in the past specifically stating that outstanding annual fees owed by other

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<sup>1</sup> See *In re Executive Mobile Servs., Inc.*, No. AP-03-41, Order No. 7236 (June 11, 2003) (voluntary termination denied where annual fee and annual report overdue).

carriers would remain due after their operations had ceased and their operating authority had terminated.<sup>2</sup>

The annual fee requirement applies to each carrier holding a certificate of authority on the first day of the calendar year<sup>3</sup> - not just to those who hold authority and are still operating. Payment is due by January 31.<sup>4</sup> The record indicates that respondent closed its business "as of January 8, 2007". By then, the annual fee was already due, and respondent has failed to show cause why it should be waived.

Because respondent is not in good standing, we shall deny the application for voluntary termination.<sup>5</sup> Because respondent has failed to pay the \$50 late fee under Regulation No. 67-03(c) as directed by Order No. 10,135, we shall revoke Certificate No. 1111 pursuant to Article XI, Section 10(c), of the Compact.<sup>6</sup>

The \$50 late fee and \$150 annual fee shall remain due. The \$100 late fee assessed under Regulation No. 67-03(b) for failing to pay the annual fee, shall also remain due.

THEREFORE, IT IS ORDERED:

1. That Certificate of Authority No. 1111 is hereby revoked.
2. That within 30 days from the date of this order respondent shall:
  - a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;
  - b. file a notarized affidavit with the Commission verifying compliance with the preceding requirement; and
  - c. surrender Certificate No. 1111 to the Commission.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.  
Executive Director

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<sup>2</sup> See e.g., *In re Tatita, Inc.*, No. MP-06-020, Order No. 9459 (Apr. 5, 2006) (revoking authority and affirming annual fee still due); *In re Besy's Transp., Inc.*, No. MP-06-016, Order No. 9458 (Apr. 5, 2006) (same); *In re Voice of Social Concern Ass'n, Inc.*, No. MP-05-187, Order No. 9457 (same); *In re LogistiCare Solutions, LLC, t/a LogistiCare*, No. MP-05-181, Order No. 9456 (same); *In re Bellah Reliable Transport., Inc.*, No. MP-05-179, Order No. 9455 (same).

<sup>3</sup> Regulation No. 67-02.

<sup>4</sup> *Id.*

<sup>5</sup> Order No. 7236.

<sup>6</sup> See *In re Marshall Heights Community Development Org., Inc.*, No. MP-06-059, Order No. 9891 (Sept. 6, 2006) (certificate revoked for failure to pay \$50 late fee).