

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,376

IN THE MATTER OF:

Served April 3, 2007

NILE EXPRESS TRANSPORT, INC., )  
Suspension and Investigation of )  
Revocation of Certificate No. 460 )

Case No. MP-2007-050

This matter is before the Commission on respondent's response to Order No. 10,328, served March 13, 2007.

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."<sup>1</sup> A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.<sup>2</sup>

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 460 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 460 was rendered invalid on March 13, 2007, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated, and no acceptable replacement had been filed. Although respondent had filed a \$1.5 million replacement Endorsement on March 6, 2007, the replacement did not become effective until March 14, 2007, leaving respondent without any motor vehicle liability insurance for March 13 and out of compliance with the continuous coverage requirement of Regulation No. 58.<sup>3</sup>

Order No. 10,328, noted the automatic suspension of Certificate No. 460 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 460, and gave respondent thirty days to pay the \$50 late fee under Regulation No. 67-03(c) or face revocation of Certificate No. 460.<sup>4</sup> Respondent paid the late fee in cash on March 13.

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<sup>1</sup> Compact, tit. II, art. XI, § 6(a).

<sup>2</sup> Compact, tit. II, art. XI, § 7(g).

<sup>3</sup> Regulation No. 58-02 provides: "Security for the protection of the public shall remain in effect at all times."

<sup>4</sup> The order also recited the customary replacement Endorsement requirement.

Normally, at this point, we would require respondent to verify that it ceased transporting passengers for hire under Certificate No. 460 as directed by Order No. 10,328.<sup>5</sup> And because respondent's general tariff is for service rendered to clients of the District of Columbia Department of Health, Medical Assistance Administration (DC Medicaid), we would require respondent to obtain confirmation from DC Medicaid.<sup>6</sup> In this case however, acting on advice from WMATC staff, respondent submitted confirmation and verification on March 19 and 21, respectively. In addition, on March 20, respondent submitted a new \$1.5 million WMATC Insurance Endorsement effective March 13, thus eliminating the one-day gap.

Although it appears respondent may have operated on March 13, the record is far from clear on the extent of respondent's contemporary awareness that coverage had not initially renewed until March 14, instead of March 13. According to respondent's insurance broker, the one-day gap resulted because respondent switched coverage from the Virginia Automobile Insurance Plan (VAIP) to the District of Columbia Automobile Insurance Plan (DCAIP), and the DCAIP has a rule that imposes a 15-day lag between the date a policy is assigned by DCAIP to one of the participating insurance companies and the effective date of the policy. Hence, even though an effective date of March 13 was requested, the 15-day rule operated to create a one-day gap. Respondent's vice-president, Tina Watson-Travis, states that respondent was not aware of the gap until March 13, when she was advised by WMATC staff. There is nothing in the record that contradicts this assertion.

Inasmuch as the record does not support a finding that respondent should have been aware of DCAIP's 15-day rule prior to March 13, 2007, we are unable to conclude that respondent should have been aware that the filing made on its behalf one week prior to termination of coverage under the previous endorsement was not effective until March 14, instead of March 13 as requested.

Based on this record, the suspension shall be lifted as of this date. Although respondent argues that the suspension should have been lifted earlier, this contention appears to be based on respondent's misunderstanding of the scope of the Executive Director's delegated authority. The Executive Director has delegated authority to issue routine suspension orders such as Order No. 10,328, and in the absence of an insurance gap, such as the one-day gap here, the Executive Director may issue a lift suspension order once respondent has complied with the suspension order. But when, as here, an insurance gap occurs - even if later closed - the Executive Director does not have delegated authority to lift the suspension.

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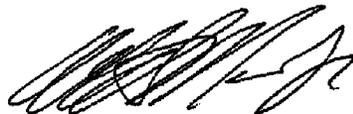
<sup>5</sup> See *Wheelchair Mobile Transport, Inc.*, No. MP-05-186, Order No. 9543 (May 11, 2006) (citing Rule No. 28); *New Era Medical Transport Services*, No. MP-05-07, Order No. 8612 (Mar. 29, 2005) (same).

<sup>6</sup> See Order No. 9543 (requiring DC Medicaid confirmation); Order No. 8612 (same).

Therefore, the suspension is lifted as of this date, and this proceeding is terminated.

IT IS SO ORDERED.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:

A handwritten signature in black ink, appearing to read 'W.S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.  
Executive Director