

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,818

IN THE MATTER OF:

Served October 10, 2007

Application of IT'S ABOUT U II) Case No. AP-2007-158
TRANSPORTATION, LLC, for a)
Certificate of Authority --)
Irregular Route Operations)

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

Applicant's president, Brenda L. Warren, is also the president of 1st Choice Investment Group, LLC, trading as It's About U, WMATC Carrier No. 1056.

Applications for certificates of authority are governed by Title II of the Compact, Article XI, Section 7. Applications for approval of common control are governed by Article XII, Section 3.

I. CERTIFICATE OF AUTHORITY

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 minibus. Applicant proposes operating under a tariff containing charter rates, rates for mileage and/or hourly priced transportation, individual and/or group sightseeing rates, and rates for transportation under contracts with government agencies and private entities.

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

II. COMMON CONTROL

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 another 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 fitness of the acquiring party, the resulting competitive balance, and the interest of affected employees.²

The Commission has uniformly approved common control in the past where the owner of an existing WMATC carrier decides to expand service in the Metropolitan District through a newly created entity.³ In such cases the Commission has held that the controlling party is entitled to a presumption of fitness, that expansion of service through a newly created entity does not raise competition concerns, and that the interests of affected employees are not at issue where an applicant has no prior operations.⁴ These same principles apply here, where the control relationship is interlocking officers.

Each carrier is admonished to keep its assets, books, finances and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.⁵

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1444 shall be issued to It's About U II Transportation, LLC, 6315 Seabrook Road, #109, Lanham, MD 20706.

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 DC CODE ANN. § 9-1103.04 (2005)); *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).

³ *In re Capital City Coach, Inc.*, No. AP-05-32, Order No. 8752 (June 1, 2005).

⁴ *Id.*

⁵ *Id.*

2. 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.

3. 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.

4. 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.

FOR THE COMMISSION

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

William S. Morrow, Jr.
Executive Director