

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 10,954

IN THE MATTER OF:

Served November 29, 2007

Application of ACADEMY EXPRESS,) Case No. AP-2007-180
L.L.C., Trading as ACADEMY, 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.

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. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

Applicant has succeeded to the assets of Academy Bus Tours, Inc., ("Academy Bus"), which held WMATC Certificate No. 456 from March 8, 1999, until August 5, 2002, when it was revoked for Academy Bus's willful failure to comply with the Commission's insurance requirements and the asset transfer provisions of the Compact.⁵ Applicant and Academy Bus were commonly controlled at the time of the asset transfer and subsequent revocation of Certificate No. 456. It appears the same persons control applicant today. The history of

¹ *In re Professional Med. Transp., Inc.*, No. AP-06-221, Order No. 10,379 (Apr. 3, 2007).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *In re Academy Bus Tours, Inc., & Academy Express, L.L.C.*, No. MP-02-32, Order No. 6757 (Aug. 5, 2002).

Certificate No. 456 has a bearing on this application because the past conduct of an applicant's owners and officers is relevant to a determination of applicant's compliance fitness.⁶

The revocation order, Order No. 6757, gave Academy Bus until September 4, 2002, to: (1) remove from its vehicles the identification placed thereon pursuant to Commission Regulation No. 61; (2) file a notarized affidavit with the Commission verifying removal; and (3) surrender Certificate No. 456 to the Commission. Academy Bus never responded.

Until such time as the requirements of Order No. 6757 have been met, we cannot say that applicant has demonstrated prospective compliance fitness when the persons controlling applicant are responsible for the failure of Academy Bus to comply with those simple requirements.

THEREFORE, IT IS ORDERED that the application of Academy Express, L.L.C., trading as Academy, for a certificate of authority is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director

⁶ Order No. 10,379.