

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,241

IN THE MATTER OF:

Served March 31, 2008

Application of NAPOLEON) Case No. AP-2008-002
WOLDEYOHANNES, Trading as NAPOLEON)
TRANSPORTATION SERVICE, for a)
Certificate of Authority --)
Irregular Route Operations)

By request filed March 3, 2008, applicant seeks withdrawal of his January 8, 2008, application for a certificate of authority.

Because "[t]he Commission cannot require one to apply for any specific operating authority, or to continue to pursue an application already filed, if he is under no legal compulsion to furnish the services,"¹ the request to withdraw shall be granted.

Applicant also requests a refund of his \$250 application fee. Regulation No. 67-01 provides that: "In the case of a rejected filing, the Commission shall return half of the fee paid." This application was not rejected. Thus, applicant is not entitled to a refund under Regulation No. 67-01.

Applicant argues that the application should have been rejected since he failed to provide required trade name information. We disagree. Although the application lacked proof of applicant's trade name registration, as required by page 4 of the application form, the Commission routinely accepts applications without such proof because an applicant has no obligation to operate under a trade name. The Commission's precedent has been to approve the application but not the trade name.² Thus the Commission finds that applicant is not entitled to a refund of his application fee under Regulation No. 67-01.

THEREFORE, IT IS ORDERED:

1. That the request of Napoleon Woldeyohannes, t/a Napoleon Transportation Service, to withdraw the application for a certificate of authority is hereby granted.

¹ *In re Malek Investment of Virginia, Inc., t/a Montgomery Airport Shuttle*, No. AP-99-11, Order No. 5706 (Sept. 22, 1999) (quoting *Montgomery Charter Serv. v. WMATC*, 302 F.2d 906 (D.C. Cir. 1962)).

² See, e.g., *In re Caring Transport Services, LLC, t/a Caring Transport Services, LLC (CTS)*, No. AP-07-147, Order No. 10,943 (Nov. 29, 2007).

2. That the request of Napoleon Woldeyohannes, t/a Napoleon Transportation Service, for a refund of the \$250 application fee paid in this proceeding is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director