

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,110

IN THE MATTER OF:

Served August 3, 2009

JET TOURS USA, INC., WMATC No. 315,)
Investigation of Violation of)
Seating Capacity Restriction)

Case No. MP-2009-110

This investigation is being initiated to determine whether respondent, Jet Tours USA, Inc., has violated the seating capacity restriction in Certificate No. 315.

I. BACKGROUND

Certificate of Authority No. 315 authorizes respondent to transport passengers for-hire between points in the Metropolitan District in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Respondent's 2007 annual report lists two 56-passenger buses. Commission staff noticed the discrepancy in 2008 when respondent filed its annual report for 2008 with four 56-passenger buses on it. Staff promptly reminded respondent that operation of 56-passenger buses violates the seating capacity restriction in Certificate No. 315.

Respondent subsequently filed an application to remove the seating capacity restriction. The application was conditionally approved on June 10, 2008, but the reissuance of Certificate No. 315 without a seating capacity restriction was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.¹ Applicant failed to satisfy the conditions for reissuance within the time allotted, thereby voiding the Commission's approval as of December 7, 2008.²

Respondent thereafter filed its 2009 annual report on January 26, 2009. The report lists the four aforementioned 56-passenger vehicles, plus an additional 52-passenger vehicle.

II. INITIATION OF INVESTIGATION

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has

¹ See *In re Jet Tours USA, Inc.*, No. AP-08-089, Order No. 11,405 (June 10, 2008) (conditionally approving reissuance of Certificate No. 315).

² See *id.* (approval of amendment void upon applicant's failure to timely satisfy conditions of reissuance). Respondent presented only two of five vehicles seating more than 15 persons.

violated or will violate a provision of the Compact or a rule, regulation, or order.³ For the purpose of an investigation or other proceeding under the Compact, the Commission may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.⁴ The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.⁵

If the Commission finds that a person has violated a provision of the Compact or any requirement established under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.⁶

The Commission will initiate an investigation to determine whether respondent has violated the seating capacity restriction in Certificate No. 315.

Respondent will be directed to produce copies of its business records from January 1, 2007, to the date of this order. Respondent also will be directed to present for inspection all vehicles in its possession, custody, or control.

III. ORDER TO CEASE AND DESIST

Respondent's authority in the Metropolitan District is limited to operations in vehicles seating fifteen persons or less. Accordingly, respondent will be directed to cease and desist from transporting passengers for-hire between points within the Metropolitan District in vehicles seating more than 15 persons, including the driver.

THEREFORE, IT IS ORDERED:

1. That an investigation of Jet Tours USA, Inc., and its operations within the Washington Metropolitan Area Transit District, and transfer of its assets is hereby initiated pursuant to Article XIII, Section 1, of the Compact.

2. That respondent is hereby directed to refrain from, and/or cease and desist from, transporting passengers for hire between points in the Metropolitan District in vehicles seating more than 15 persons, including the driver.

³ Compact, tit. II, art. XIII, § 1(c).

⁴ Compact, tit. II, art. XIII, § 1(e).

⁵ Compact, tit. II, art. XII, § 1(b).

⁶ Compact, tit. II, art. XIII, § 1(d).

3. That respondent is hereby directed to produce within fifteen days (1) a complete list of vehicles in its possession, custody, or control; (2) copies of the for-hire registration cards for those vehicles; and (3) a copies of the current safety inspection certificates for those vehicles.

4. That respondent is hereby directed to present all of its vehicles for inspection by Commission staff within thirty days.

5. That within thirty days from the date of this order, respondent shall produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within its possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning January 1, 2007, and ending on the date of this order, including, but not limited to any and all:

- a. customer contracts and invoices;
- b. invoices from other carriers;
- c. calendars and itineraries;
- d. correspondence;
- e. bank and payroll records;
- f. insurance documents;
- g. advertising materials; and
- h. income tax and personal property returns.

6. That Certificate of Authority No. 315 shall stand suspended and be subject to revocation without further proceeding upon respondent's failure to timely comply with this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director