

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,230

IN THE MATTER OF:

Served November 18, 2009

Application of METRORIDE L L C for)
a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2009-099

By application filed September 15, 2009, applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

Applicant was formed on August 27, 2009. Applicant's articles of organization identify Joseph K. Ngwafa as one of the persons responsible for applicant's formation. Mr. Ngwafa holds WMATC Certificate of Authority No. 1210 and operates under the trade name First Choice Health Services.

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 van. Applicant proposes operating under a tariff containing rates for Medicaid transportation and rates for private pay ambulatory/wheelchair transportation.

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 Commission has subjected applications to scrutiny under Article XII, Section 3(a)(iii), in the past where, as here, an existing WMATC carrier or owner of an existing WMATC carrier decides to expand service in the Metropolitan District through a newly created entity.² The Commission performed this analysis even though in each case the applicant - and implicit target - was not operating in the Metropolitan District at the time the application for a certificate of authority was filed.³ Last year, however, the Commission ruled that the relevant time for determining whether a carrier "operates in the Metropolitan District" shall be determined as of the date the application in question is filed.⁴ Applying that ruling here, we conclude that an analysis under Article XII, Section 3(a)(iii), is not required in this application.

Applicant is admonished to keep its assets, books, finances and operations completely separate from those of Joseph K. Ngwafa, trading as First Choice Health Services. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.⁵

¹ Compact, tit. II, art. XII, § 3(c).

² See *In re It's About U II Transp., LLC*, No. AP-07-158, Order No. 10,818 (Oct. 10, 2007); *In re Arnida Ball Lamont, t/a Pal*, No. AP-06-234, Order No. 10,307 (Mar. 6, 2007); *In re Aero Transp., Inc.*, No. AP-05-193, Order No. 9557 (May 12, 2006); *In re Outreach Transp. Serv., Inc.*, No. AP-05-139, Order No. 9467 (Apr. 13, 2006); *In re Sanaga Servs. & Care LLC*, No. AP-05-055, Order No. 9034 (Oct. 13, 2005); *In re Capital City Coach, Inc.*, No. AP-05-32, Order No. 8752 (June 1, 2005).

³ See Order No. 10,818 ("applicant proposes commencing operations"); Order No. 10,307 (same); Order No. 9557 (same); Order No. 9467 (same); Order No. 9034 (same); Order No. 8752 (same).

⁴ *In re Upscale Limo. Serv. LLC*, No. AP-08-142, Order No. 11,644 (Oct. 24, 2008) (citing *In re VIP Coach Servs., Inc., & White House Sightseeing Corp.*, No. AP-84-06, Order No. 2550 at 4-5 (May 1, 1984)).

⁵ *In re Simon & Miriam Corp.*, No. AP-06-141, Order No. 10,109 (Nov. 30, 2006).

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1652 shall be issued to Metroride L L C, 9207 Chestnut Avenue, Bowie, MD 20720-3222.

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; (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.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director