

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,557

IN THE MATTER OF:

Served September 27, 2010

Application of BUTLER MEDICAL) Case No. AP-2010-116
TRANSPORT, LLC, Trading as BUTLER)
MOBILITY, for a Certificate of)
Authority -- Irregular Route)
Operations)

Application of BUTLER MEDICAL) Case No. AP-2010-117
TRANSPORT, LLC, Trading as BUTLER)
MOBILITY, for Temporary Authority -)
- Irregular Route Operations)

Applicant seeks temporary authority to provide wheelchair and ambulatory transportation services to and from Holy Cross Hospital in Silver Spring, Maryland, over irregular routes in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. Applicant also seeks a certificate of authority to provide such transportation on a permanent basis, as well as other transportation over irregular routes 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 applications are unopposed.

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 irregular-route operations with 1 sedan and 15 vans. Applicant proposes operating under a tariff containing rates for Medicaid transportation, rates for private pay ambulatory/wheelchair transportation, and rates for transportation under contracts with 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. TEMPORARY AUTHORITY

Under Title II of the Compact, Article XI, Section 13(a), the Commission may grant temporary authority if there is an immediate need for service that is not available. Under Regulation No. 54-06(a), a temporary authority applicant must provide evidence sufficient to enable the Commission to determine (i) the exact nature of the service proposed, (ii) that there is an immediate need for service that is not available, and (iii) that applicant is fit to provide the temporary service proposed.

Applicant seeks temporary authority to provide wheelchair and ambulatory transportation services to and from Holy Cross Hospital in Silver Spring, Maryland, over irregular routes in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application for temporary authority is supported by an affidavit from Holy Cross Hospital. The affidavit attests to an immediate need for the type of service proposed by applicant, but the affidavit does not claim that such service is not available from any existing WMATC carrier. Accordingly, the application for temporary authority shall be denied.¹ Conditionally granting the application for a certificate of authority renders the application for temporary authority moot, in any event.

THEREFORE, IT IS ORDERED:

1. That Case Nos. AP-10-116 and AP-10-117 are hereby consolidated pursuant to Commission Rule No. 20-02.
2. That the application for temporary authority is denied.
3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1748 shall be issued to Butler Medical Transport, LLC, trading as Butler Mobility, 10233 S. Dolfield Road, Owings Mills, MD 21117-3620.
4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order

¹ See *In re EMT Balt., LLC, t/a Express Med. Transps.*, No. AP-09-115, Order No. 12,241 (Dec. 2, 2009).

unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

5. 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.

6. 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 BRENNER, HOLCOMB, AND KUBLY:



William S. Morrow, Jr.
Executive Director