

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,749

IN THE MATTER OF:

Served March 3, 2011

Application of AMERICAN DC ) Case No. AP-2010-152  
LIMOUSINE AND BUS SERVICE INC., )  
Trading as AMERICAN DC LIMOUSINE, )  
for a Certificate of Authority -- )  
Irregular Route Operations )

This matter is before the Commission on applicant's admission of operating in the Metropolitan District after approval of the application in this proceeding but prior to the issuance of authority.

The Commission conditionally approved applicant's application for a certificate of authority in this proceeding on November 12, 2010, in Order No. 12,625, pursuant to the Washington Metropolitan Area Transit Regulation Compact.<sup>1</sup> The order stipulated that Certificate No. 1658 would be issued to applicant upon applicant's satisfaction of the conditions of approval requiring applicant to present its vehicles for inspection by Commission staff and file certain documents. The approval order admonished: "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." Certificate No. 1658 has not been issued yet.

On November 23, 2010, the Commission received a complaint regarding passenger transportation allegedly performed by applicant in a 24-passenger limo bus between points in the District of Columbia (which is wholly within the Metropolitan District) on November 19-20, 2010. The Commission forwarded a copy of the complaint to applicant on December 20, 2010, and received applicant's response on January 3, 2011. In the response, applicant admits performing the trip and charging the customer a total of \$650.

Article XI, Section 6(a), of the Compact provides that: "A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation." Article XI, Section 14(c), of the Compact provides that: "A carrier may not charge a rate or fare for transportation subject to this Act other than the applicable rate or fare specified in a tariff filed by the carrier under this Act and in effect at the time." It would appear applicant has admitted violating these provisions.

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<sup>1</sup> Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

The Commission's conditional approval in Order No. 12,625 was predicated in part on finding that applicant was willing and able to "conform to the provisions of the Compact". It now appears that this finding might have been in error. Under Commission Regulation No. 26-04:

If, after the hearing in a proceeding, the Commission shall have reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of such proceeding, the Commission will issue an order reopening.

We shall reopen this proceeding to allow applicant an opportunity to show cause why the Commission should not assess a civil forfeiture against applicant pursuant to Article XIII, Section 6(f), of the Compact for knowingly and willfully operating without authority, direct applicant to refund the \$650 collected from the complainant without a valid tariff in effect, and/or rescind the conditional grant in Order No. 12,625.<sup>2</sup>

THEREFORE, IT IS ORDERED:

1. That the Commission hereby reopens this proceeding pursuant to Rule No. 26-04.

2. That applicant shall have 30 days to show cause why the Commission should not assess a civil forfeiture against applicant, direct applicant to refund \$650, and/or rescind the conditional grant in Order No. 12,625, for knowingly and willfully transporting passengers for hire between points in the Metropolitan District on November 19-20, 2010, without authority and without a valid tariff in effect in violation of Article XI, Sections 6(a) and 14(c), of the Washington Metropolitan Area Transit Regulation Compact and Commission Order No. 12,625.

3. That applicant may submit within 15 days from the date of this order a written request for oral hearing, specifying the grounds for the request, describing the evidence to be adduced and explaining why such evidence cannot be adduced without an oral hearing.

FOR THE COMMISSION



William S. Morrow, Jr.  
Executive Director

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<sup>2</sup> See *In re Double Decker Bus Tours W.D.C., Inc., t/a Double Decker Bus Wash., D.C.*, No. AP-95-21, Order No. 5963 (Aug. 15, 2000) (reopening application proceeding); *In re Ruchman & Assocs., Inc., t/a RAI, Inc.*, No. AP-91-32, Order No. 3868 (Dec. 19, 1991) (setting hearing to investigate post-approval, pre-issuance operations).