

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,917

IN THE MATTER OF:

Served July 20, 2011

Application of GEORGE TOWNE TROLLEY)
TOURS AND TRANSPORTATION LLC for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2011-076

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

This is the second application filed by this applicant. Applicant applied for operating authority earlier this year, but the application was dismissed without prejudice for want of prosecution.¹

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 minibus. Applicant proposes operating under a tariff containing rates for mileage and/or hourly priced transportation and airport shuttle rates.

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

¹ *In re George Towne Trolley Tours and Transp. LLC*, No. AP-11-022, Order No. 12,751 (Mar. 3, 2011).

transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

II. COMMON CONTROL

The record indicates that applicant's owner, Esaias D. Dessie, also owns Eagle Limo, LLC, a company which operates a limousine service within the District of Columbia under authority issued by the District of Columbia Taxicab Commission.

Under Article XII, Section 3(a), of the Compact, a carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District or acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

Commission precedent is less than consistent on the issue of when Article XII, Section 3, applies,² including the issue of whether it applies to carrier affiliates that operate in the Metropolitan District but do not require WMATC authority.³

What is clear, however, is that in the absence of any evidence indicating applicant was operating in the Metropolitan District as of the date this application was filed, this application is not subject to common control analysis under Article XII, Section 3.⁴

Applicant is admonished to keep its assets, books, finances and operations completely separate from those of Eagle Limo, LLC. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.⁵

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1833 shall be issued to George Towne Trolley Tours and Transportation LLC, 4380 King Street, #310, Alexandria, VA 22302-1538.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order

² *In re Quality Medical Supplies LLC, t/a F & J Healthcare Services*, No. AP-04-25, Order No. 8033 at 3 (May 27, 2004).

³ *Compare Executive Coach, Ltd.*, No. AP-91-12, Order No. 3666 (Apr. 2, 1991) (control acquisition analysis is required under Article XII, Section 3, as to non-WMATC carrier) with *In re VIP Coach Servs., Inc.*, No. AP-83-48, Order No. 2550 (May 1, 1984) (control acquisition analysis not required under Article XII, Section 3, predecessor as to non-WMATC carrier).

⁴ *In re Metroride LLC*, No. AP-09-099, Order No. 12,230 (Nov. 18, 2009).

⁵ *Id.*

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.

FOR THE COMMISSION

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director