

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,227

IN THE MATTER OF:

Served April 10, 2012

Petitions to Waive Regulation)
No. 67-03, Filed by:)

Case No. MP-2012-028

FOUR SEASONS TOUR AND MINIBUS)
SERVICE, INC., WMATC No. 244)

HAZEM EL SAMAHY, T/A ROYAL USA)
TOURS AND TRANSPORTATION, WMATC)
No. 743)

TILLY'S LIMOUSINE & SEDAN SERVICES,)
INC., WMATC No. 1170)

Commission Regulation No. 60-01 provides that each carrier holding a certificate of authority on the first day of the calendar year shall file an annual report on or before January 31 of that year. Regulation No. 67-02 provides that each carrier holding a certificate of authority on the first day of the calendar year shall pay an annual fee of \$150 on or before January 31 of that year.

Each of the above-captioned carriers held a certificate of authority on January 1, 2012. Each failed to comply with Regulation No. 60-01 and/or Regulation No. 67-02 on or before January 31. As a result, each carrier was automatically assessed \$150 for failing to pay the fee on time and/or \$150 for failing to file the report on time.

Each carrier has filed a petition to waive the late fee(s). Under Rule No. 20-02, the Commission may consolidate two or more proceedings involving a common question of law or fact. Here, the common question is whether the Commission should waive Regulation No. 67-03.

Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause." Hence, the question is whether any of these petitions shows good cause for waiving said late fees.¹

¹ *In re Winter Growth, Inc.*, No. MP-08-084, Order No. 11,303 (Apr. 24, 2008).

After careful consideration of the grounds offered by each petition for waiving Regulation No. 67-03, we conclude that none constitutes good cause for granting the relief requested for the following reasons:

Carrier No. 244, Four Seasons

Petitioner did not tender its 2012 annual fee and report until February 10, 2012. Petitioner acknowledges receiving notice dated December 23, 2011, that the annual fee and report were due January 31, 2012, and that petitioner had the option to tender the report and fee electronically through the Commission's website. Petitioner explains that it decided to wait for the hard copy invoice and prepopulated form in the mail - the Commission provides these as a convenience to the carrier and the Commission - but they never arrived.

While petitioner may have preferred not to tender the report and fee electronically, petitioner does not suggest it was unable to do so. In addition, petitioner could have tendered payment by check without the invoice, and petitioner could have downloaded a blank annual report form from the Commission's website or requested one by calling the Commission. The petition therefore is denied.

Carrier No. 743, Royal USA Tours

Petitioner did not pay the 2012 annual fee until February 14, 2012, which petitioner accomplished by accessing an electronic payment link on the Commission's website. Petitioner has yet to file a 2012 annual report. Petitioner blames this noncompliance on an accident involving "one of [petitioner's] vans," which according to petitioner was "totaled". The accident report accompanying the petition states that the accident occurred December 15, 2011, and that petitioner was operating the vehicle at the time. The report, however, characterizes the damage to petitioner's van as "cosmetic", and the report states that neither driver was injured.

We find that petitioner's evidence does not support the claim that petitioner was personally unable to access the Commission's website to pay the 2012 annual fee and file the 2012 annual report on or before January 31, 2012. We further find that petitioner has failed to explain how he was able to compose and mail the instant request in February but is still unable to complete and file an annual report today. The petition therefore is denied.

Carrier No. 1170, Tilly's Limousine

Petitioner did not tender its 2012 annual fee and report until February 8, 2012. Petitioner claims it was not sure when they were due. Petitioner also claims financial hardship.

Petitioner has held Certificate No. 1170 since 2006 and may not claim ignorance at this late date. Furthermore, the petition is not supported by evidence of petitioner's financial condition. The petition therefore is denied.

THEREFORE, IT IS ORDERED:

1. That the above-captioned petitions are hereby consolidated for decision pursuant to Commission Rule No. 20-02.

2. That all petitions are denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:

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

William S. Morrow, Jr.
Executive Director