

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,276

IN THE MATTER OF:

Served May 18, 2012

Petition to Waive Regulation )  
No. 67-03, Filed by: M & M MEDVAN, ) Case No. MP-2012-054  
INC, WMATC No. 805 )

This matter is before the Commission on a petition to waive late fees assessed under Regulation No. 67-03.

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.

Petitioner held a certificate of authority on January 1, 2012. Petitioner failed to comply with Regulation No. 60-01 and Regulation No. 67-02 on or before January 31. Pursuant to Regulation No. 67-03(a),(b), petitioner was automatically assessed \$150 for failing to pay the fee on time and \$150 for failing to file the report on time. Petitioner has filed a petition to waive said late fees.

Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause." After careful consideration of the petition, we conclude that petitioner has failed to show cause for granting the relief requested for the following reasons.

The record shows that petitioner did not submit its 2012 annual fee and report until April 6, 2012, which petitioner accomplished by tendering the report, the \$150 annual fee, and the \$300 in late fees electronically through the Commission's website using an electronic filing ID and password assigned by the Commission on December 20, 2011. The record also shows that the Commission advised petitioner by letter dated February 2, 2012, that the report and fee were overdue but that petitioner did not respond until March 5, 2012, by sending a fax stating petitioner's "Desire to e-file and e-pay." Petitioner waited until April 6, 2012, to act on that desire, presumably in response to the "FINAL NOTICE" the Commission sent to petitioner the day before.

The basis asserted in the petition for waiving the late fees is that an injury to a member of the family of petitioner's Vice

President/Marketing in the spring of 2010 and the after-effects of the injury in 2011 and 2012 prevented petitioner from timely tendering its 2012 annual report and fee in January 2012. Specifically, the family member was injured in March 2010 and hospitalized for 21 days until April 3, 2010. Additional surgery was performed on September 1, 2011, apparently on an outpatient basis, and twice-weekly physical therapy sessions were prescribed for 4-6 weeks in late November 2011, which actually lasted for 7 weeks from early December 2011 through late January 2012.

As arduous as this must have been for petitioner's vice president, it does not excuse petitioner from failing to meet its obligations as a WMATC carrier. The duty to comply with Commission requirements falls on the carrier, not its individual officers. Individual officers may be found complicit in a carrier's failure to comply with WMATC requirements, but the personal plight of a single officer does not constitute good cause in the circumstances of this case for respondent's failure to fulfill its responsibilities under the Compact.

In addition, petitioner offers no explanation of why its vice president chose to fax notice of petitioner's intention to comply on March 5 and then wait another month to comply on April 6 instead of simply complying on March 5.

Accordingly, the petition shall be denied.<sup>1</sup>

THEREFORE, IT IS ORDERED that the petition to waive late fees under Regulation No. 67-03(a),(b) is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER AND HOLCOMB:



William S. Morrow, Jr.  
Executive Director

---

<sup>1</sup> See *In re Hazem El Samahy, t/a Royal USA Tours and Transp.*, No. MP-12-028, Order No. 13,227 (Apr. 10, 2012) (denying waiver where carrier filed late-fee waiver request in February but no annual report as of April 10).