

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 13,544

IN THE MATTER OF:

Served October 19, 2012

Application of MY OWN PLACE, INC.,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2012-157

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

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. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

I. THE RECORD

Applicant formerly held WMATC Certificate No. 1345. Said certificate was revoked on June 22, 2012, in Order No. 13,323 for applicant's willful failure to comply with Commission Regulation Nos. 60 and 67 and Commission Order No. 13,252. The revocation order directed applicant to file within 30 days an affidavit and supporting photographs verifying removal of vehicle markings. Applicant did not comply. Instead, applicant reapplied for WMATC operating authority by filing this application on August 3, 2012.

¹ *In re Nur Corp.*, No. AP-10-178, Order No. 12,730 (Feb. 15, 2011).

² *Id.*

³ *Id.*

⁴ *Id.*

By letter dated August 14, 2012, applicant was directed to file a statement explaining why approving this application would be consistent with the public interest when applicant had yet to comply with the terms of Order No. 13,323 and had yet to verify in accordance with WMATC Rule No. 28 that applicant ceased transporting passengers as of May 7, 2012, the date Certificate No. 1345 was suspended for the infractions mentioned above.

Applicant has produced a notarized statement that verifies removal of WMATC markings from applicant's vehicles, and the statement is supported by photos of said vehicles. The statement also confirms that applicant "is no longer transporting individuals as a certified WMATC transportation provider." The statement does not indicate, however, when applicant's carrier operations ceased.

II. LIKELIHOOD OF FUTURE COMPLIANCE

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁵

Applicant's statement does not exclude the possibility that applicant continued operating after the suspension of Certificate No. 1345. Indeed, the statement does not exclude the possibility that applicant continues transporting passengers for hire in the Metropolitan District today. It only excludes the possibility of operations that are not WMATC certified. It does not exclude the possibility of operations that are no longer certified but should be.

Accordingly, we cannot say that applicant has satisfied its burden of demonstrating regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of My Own Place, Inc., for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND BELLAMY:



William S. Morrow, Jr.
Executive Director

⁵ *In re Exec. Tech. Solutions, LLC*, No. AP-12-033, Order No. 13,250 (May 3, 2012).