

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,256

IN THE MATTER OF:

Served October 1, 2013

Application of BETTY EMILIA)
MARTINEZ, Trading as ENSO TRAVEL) Case No. AP-2013-128
SERVICE, for a Certificate of)
Authority -- Irregular Route)
Operations)

This matter is before the Commission on applicant's response to Order No. 14,057, served July 8, 2013, which dismissed this proceeding for applicant's failure to furnish all information necessary for a full and fair examination of the application. Applicant has filed a request to reopen this proceeding.

I. CAUSE FOR DISMISSAL AND GROUNDS FOR REOPENING

Under the Compact, an application to obtain a certificate of authority shall be made in writing, verified, and shall contain the information required by the application form and accompanying instructions.¹ An applicant may be required to furnish any supplemental information necessary for a full and fair examination of the application.² Failure to comply with the Commission's application requirements warrants dismissal.³

By letter sent June 21, 2013, applicant was required to furnish supplemental information on or before July 5, 2013, pursuant to Commission Regulation No. 54-04(b). Applicant failed to respond. Accordingly, the application was dismissed July 8, 2013.

On August 7, 2013, applicant filed a request to reopen this proceeding. The request is accompanied by the required information. For good cause shown, this proceeding shall be reopened under Commission Rule No 26.⁴

II. APPLICATION

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a

¹ Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

² Regulation No. 54-04(b).

³ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).

⁴ See *In re Abdelrazig Hassan Shawkat*, No. AP-13-076, Order No. 13,865 (Apr. 12, 2013) (same).

seating capacity of less than 16 persons only, including the driver. 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).

Applicant proposes commencing operations with one sedan. Applicant proposes operating under a tariff containing charter 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.

Normally, such evidence would establish applicant's fitness,⁵ but this applicant has a history of regulatory violations.

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of applicant's 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 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.⁶

Applicant previously held WMATC Certificate of Authority No. 588, under the trade name Panamerica Express Shuttle, from January 31, 2001, until October 29, 2002, when Certificate No. 588 was voluntarily terminated at applicant's request.⁷ The order approving termination, WMATC Order No. 6871, gave applicant 30 days to surrender Certificate No. 588 and verify removal of vehicle markings. Applicant surrendered Certificate No. 588 shortly thereafter, albeit three weeks

⁵ *In re Felicia Elizabeth Medlock, t/a Felicia E. Medlocks Transp.*, No. AP-12-281, Order No. 13,710 (Jan. 31, 2013).

⁶ *Id.*

⁷ *In re Betty Emilia Martinez, t/a Panamerica Express Shuttle*, No. AP-02-117, Order No. 6871 (Oct. 29, 2002).

late, but did not verify timely removal of vehicle markings until August 7, 2013, when she simultaneously verified timely cessation of operations.

According to the statements filed by applicant in this proceeding, applicant timely ceased operations under Certificate No. 588 on June 21, 2002, and timely removed the WMATC markings from her vehicle(s) on June 30, 2002. There is no evidence in the record to the contrary.

The Commission has found other applicants fit under similar circumstances.⁸ Applicant shall serve a one year period of probation as a means of ensuring prospective compliance.⁹

In closing, we note that in addition to registering the name "Enso Travel Service" as a trade name with the Maryland Department of Assessments and Taxation, applicant has formed a corporation in Maryland by the name of the "Enso Travel Service Ltd." Applicant states that she has no intention to operate through the corporation at this time but will notify the Commission "by letter" at such time as those plans change. In the event applicant satisfies the conditions of this grant and Certificate No. 588 is reissued, applicant is admonished that she may not conduct WMATC operations through Enso Travel Service Ltd., or any other corporation for that matter, unless and until said corporation has filed an application with the Commission and the Commission has approved the transfer of Certificate No. 588.

THEREFORE, IT IS ORDERED:

1. That this proceeding is hereby reopened under Commission Rule No 26.

2. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 588 shall be reissued to Betty Emilia Martinez, trading as Enso Travel Service, 198 Halpine Road, #1231, Rockville, MD 20852-7612.

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

⁸ See Order No. 13,710 (paid outstanding late fees, accounted for vehicle markings, and verified timely cessation of operations with no evidence to the contrary); *In re Voneva Inc.*, No. AP-09-107, Order No. 12,240 (Dec. 1, 2009) (paid outstanding late fees, accounted for vehicle markings, and verified timely cessation of operations with no evidence to the contrary); *In re Smart Ride, Inc.*, No. AP-08-081, Order No. 11,446 (July 1, 2008) (paid outstanding late fees, accounted for vehicle markings, and verified timely cessation of operations).

⁹ See, e.g., Order No. 13,710 (same); Order No. 12,240 (same); Order No. 11,446 (same).

unless and until Certificate No. 588 has been reissued in accordance with the preceding paragraph.

4. 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.

5. That applicant shall be placed on probation for a period of one year commencing with the reissuance of a certificate of authority in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

6. 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.

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



William S. Morrow, Jr.
Executive Director