

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,315

IN THE MATTER OF:

Served October 31, 2013

Application of DILIGENT)	Case No. AP-2013-242
TRANSPORTATION INC for a)	
Certificate of Authority --)	
Irregular Route Operations)	

On October 23, 2013, the Commission issued Order No. 14,285 conditionally approving the application in this proceeding. It now appears that order was issued in error.

This proceeding was dismissed in Order No. 14,192, served August 27, 2013, for applicant's failure to furnish additional information. Although applicant subsequently furnished the required information and requested reconsideration of Order No. 14,192 on September 3, 2013, that development is not noted in Order No. 14,285 as grounds for reopening this proceeding, and neither Order No. 14,285 nor any Commission order prior thereto purports to reopen this proceeding. Therefore, this proceeding, in fact, was not open at the time Order No. 14,285 was issued.

The Commission, however, has the power to correct clerical errors.¹ Under Title II of the Compact, Article XIII, Section 3(a), "[t]he Commission shall perform any act, and prescribe, issue, make, amend, or *rescind* any order, rule, or regulation that it finds necessary to carry out the provisions of this Act." (Emphasis added).

Inasmuch as Order No. 14,285, as constituted, should not have issued, it shall be rescinded.

This matter is now before the Commission for consideration of applicant's response to Order No. 14,192 as grounds for reopening 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.² An applicant may be required to furnish any supplemental information necessary for a full and fair examination of

¹ See, e.g., *In re Fortune Inc., t/a Alpha Rides*, No. AP-10-174, Order No. 12,846 (May 6, 2011).

² Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

the application.³ Failure to comply with the Commission's application requirements warrants dismissal.⁴

By letter sent August 12, 2013, applicant was notified of acceptance of its application and required to furnish supplemental information on or before August 26, 2013, pursuant to Commission Regulation No. 54-04(b). Applicant timely submitted some but not all of the required information on August 19, 2013. Accordingly, the application was dismissed on August 27, 2013.

On September 3, 2013, applicant furnished the remaining required information and filed a request for reconsideration of the dismissal of this application. For good cause shown, this proceeding shall be reopened under Commission Rule No 26.⁵

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 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.

Applicant proposes commencing operations with one SUV and one van. Applicant proposes operating under a tariff containing charter rates, individual and/or group sightseeing rates, rates for mileage and/or hourly priced transportation, airport shuttle rates, rates for Medicaid transportation, rates for private pay ambulatory/wheelchair transportation, and rates for transportation under contracts with government agencies and private entities.

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.

³ Regulation No. 54-04(b).

⁴ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).

⁵ *See In re Abdelrazig Hassan Shawkat*, No. AP-13-076, Order No. 13,865 (Apr. 12, 2013) (same).

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

THEREFORE, IT IS ORDERED:

1. That Order No. 14,285 is hereby rescinded.
2. That this proceeding is hereby reopened under Commission Rule No 26.
3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 2328 shall be issued to Diligent Transportation Inc, 817 Silver Spring Avenue, #409B, Silver Spring, MD 20910-4617.
4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.
5. 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.
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.

FOR THE COMMISSION



William S. Morrow, Jr.
Executive Director