

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,600

IN THE MATTER OF:

Served February 26, 2014

Application of PRIMUS METRO, LLC,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2013-362

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

An application for a certificate of authority must be in writing, verified, and in the form and with the information that Commission regulations require.¹ Commission Regulation No. 54 requires applicants to complete and file the Commission's application form. The form itself requires supporting exhibits. Commission Regulation No. 54-04(b) stipulates that an applicant may be required to furnish additional information necessary to a full and fair determination of the application. The evidence thus submitted must establish a prima facie case of fitness and consistency with the public interest.²

A certain level of candor is required of applicants for WMATC operating authority.³ It appears that applicant, however, has not been entirely candid with the Commission in the response of its president and owner, Placid Chijioke Iheduru, to a query concerning applicant's relationship with Capital Metro LLC.

¹ Compact, tit. II, art. XI, § 8.

² *In re City Sightseeing USA Inc.*, No. AP-04-39, Order No. 8042 (June 1, 2004).

³ *In re Ready Eager Drivers Inc*, No. AP-12-003, Order No. 13,536 at 7 (Oct. 18, 2012).

Capital Metro was conditionally granted WMATC operating authority in 2012, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.⁴ Capital Metro failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval.⁵ Capital Metro reapplied for WMATC operating authority on May 13, 2013, but that application was dismissed without prejudice for want of prosecution.⁶

According to Commission records, applicant's street address is the same as that for Capital Metro LLC. When queried about the relationship between applicant and Capital Metro, Mr. Iheduru responded on behalf of applicant as follows:

Capital Metro, LLC's owner Ms. Nkem D. Olanrewaju filed an application to obtain a certificate of authority on January 4, 2012. At the time of application we were sharing the same address. Later Ms. Olanrewaju moved to her own house, she also did not complete the process to get the certificate she applied for. I then decided to apply personally to obtain a Certificate of Authority to operate irregular routes.

Clearly, the implication of this statement is that the only link between applicant and Capital Metro is that applicant occupies an address once occupied by Capital Metro. This implication, however, conflicts with Mr. Iheduru's June 28, 2013, statement in the second Capital Metro proceeding in which Mr. Iheduru identified himself as "PRESIDENT/Owner" of Capital Metro. Indeed, in that statement, he was the only person listed as a Capital Metro owner.

Documents from the Maryland Department of Assessments and Taxation⁷ show that Mr. Iheduru: (1) helped form Capital Metro in December 2011; (2) amended Capital Metro's articles of organization to remove Ms. Olanrewaju from the company in April 2013 - before the second Capital Metro application was filed with WMATC; (3) designated himself as Capital Metro's resident agent and the address in question as its principal place of business the day after filing Capital Metro's second WMATC application; and (4) remains Capital Metro's resident agent to this day.

⁴ See *In re Capital Metro LLC*, No. AP-12-002, Order No. 13,145 (Feb. 6, 2012) (conditionally granting Certificate No. 1894).

⁵ See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66 (failure to comply with conditions of grant within 180 days voids approval).

⁶ *In re Capital Metro LLC*, No. AP-13-139, Order No. 14,154 (Aug. 14, 2013).

⁷ Available at <http://sdatcert3.resiusa.org/ucc-charter/>.

Mr. Iheduru's response in this proceeding appears calculated to obscure rather than illuminate his, and thus applicant's, relationship to Capital Metro. His response in this proceeding is misleading and ultimately fails to reach the level of disclosure expected of an applicant that bears the burden of production and persuasion on the issue of fitness to serve the public. Until applicant is more forthcoming about the nature of its relationship with Capital Metro, we cannot say that applicant has met its burden of proof.⁸

THEREFORE, IT IS ORDERED that the application of Primus Metro, LLC, 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

⁸ See Order No. 13,536 (rescinding conditional grant for misleading statements); *In re Elite Transp., Inc.*, No. AP-03-137, Order No. 7949 (Apr. 20, 2004) (denying application in part for misleading statements).