

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,606

IN THE MATTER OF:

Served February 26, 2014

Application of ZION FOUNDATION FOR)
CITIZENS, INC., Trading as ZION) Case No. AP-2013-422
TRANSPORTATION SERVICES, for a)
Certificate of Authority --)
Irregular Route Operations)

This matter is before the Commission on applicant's response to Order No. 14,518, served January 27, 2014, 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 January 3, 2014, applicant was required to furnish supplemental information on or before January 17, 2014, pursuant to Commission Regulation No. 54-04(b). Applicant failed to submit all of the requested information. Accordingly, the application was dismissed January 27, 2014.

On January 29, 2014, applicant filed a request to reopen this proceeding. The request, as supplemented February 11, 2014, is supported by the remaining 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

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).

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).

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. 410, from March 11, 1998, until June 12, 2009, when Certificate No. 410 was voluntarily terminated at applicant's request.⁷ The order approving termination, WMATC Order No. 12,046, gave applicant 30 days to surrender Certificate No. 410 and verify removal of vehicle markings. Applicant did not comply.

⁵ *In re Betty Emilia Martinez, t/a Enso Travel Serv.*, No. AP-13-128, Order No. 14,256 (Oct. 1, 2013); *In re Felicia Elizabeth Medlock, t/a Felicia E. Medlocks Transp.*, No. AP-12-281, Order No. 13,710 (Jan. 31, 2013).

⁶ Order Nos. 14,256 & 13,710.

⁷ *In re Zion Found. For Citizens, t/a Zion Transp. Servs.*, No. AP-09-072, Order No. 12,046 (June 12, 2009).

According to a statement filed by applicant in this proceeding, applicant ceased operating when it lost its contract with Medical Transportation Management, Inc., (MTM). According to MTM, the contract terminated July 31, 2008, and MTM has not referred any trips to applicant since then. Applicant further states that it timely removed WMATC vehicle markings and that it is unable to locate Certificate No. 410. 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

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 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. 410 shall be issued to Zion Foundation For Citizens, Inc., trading as Zion Transportation Services, 6129 Main Street, Lanham, MD 20706-2754.

3. 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.

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

⁸ See Order No. 14,256 (accounted for vehicle markings and certificate of authority and verified timely cessation of operations, with no evidence to the contrary); 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. 14,256 (same); Order No. 13,710 (same); Order No. 12,240 (same); Order No. 11,446 (same).

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