

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 14,938

IN THE MATTER OF:

Served July 24, 2014

Petitions to Waive Regulation No. 67-03, Filed by:)	Case No. MP-2014-116
M & C ENTERPRISE, INC., T/A CHARIOTS FOR HIRE, WMATC No. 1519)	
EXPRESS TRANSIT, LLC, WMATC No. 1644)	
AMERICAN DC LIMOUSINE AND BUS SERVICE INC., T/A AMERICAN DC LIMOUSINE, WMATC No. 1658)	
D N A MEDICAL TRANSPORTATION INC, WMATC No. 1814)	
METRO IWAY, LLC, WMATC No. 1832)	

Commission Regulation No. 60-01 provides that each carrier holding a certificate of authority on the first day of the calendar year shall file an annual report on or before January 31 of that year. Regulation No. 67-02 provides that each carrier holding a certificate of authority on the first day of the calendar year shall pay an annual fee of \$150 on or before January 31 of that year.

Each of the above-captioned carriers held a certificate of authority on January 1, 2014. Each failed to comply with Regulation No. 60-01 and/or Regulation No. 67-02 on or before January 31. As a result, each carrier was automatically assessed \$150 for failing to pay the fee on time and/or \$150 for failing to file the report on time. Each carrier has filed a petition to waive the late fee(s). Under Rule No. 20-02, the Commission may consolidate two or more proceedings involving a common question of law or fact. Here, the common question is whether the Commission should waive Regulation No. 67-03.

Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause." Hence, the question is whether any of these petitions shows good cause for waiving said late fees.¹ After careful consideration of the grounds offered by each petition for waiving Regulation No. 67-03, we conclude

¹ *In re Winter Growth, Inc.*, No. MP-08-084, Order No. 11,303 (Apr. 24, 2008).

that none constitutes good cause for granting the relief requested for the following reasons:

Carrier No. 1519, M & C Enterprise

The record shows that petitioner tendered its 2014 annual fee and report on February 3, 2014. Petitioner offers the following as grounds for waiving the \$300 in combined late fees: "I sent my filing in/around January 27." This does not constitute grounds for waiving late fees under Regulation No. 67-03.

First, January 31, 2014, was the payment-received deadline,² not the mailing deadline. Second, the report is dated January 29, 2014, not January 27, 2014, and the check is dated January 30, 2014, not January 27, 2014. Third, by waiting until the last moment to tender the report and fee by mail, petitioner assumed the risk that they would not arrive at WMATC by the deadline.

The petition therefore is denied, and the \$300 in late fees paid on June 19, 2014, shall not be refunded.

Carrier No. 1644, Express Transit

The record shows that petitioner timely paid its 2014 annual fee on January 31, 2014, but waited until February 11, 2014, to file its annual report³ - after Commission staff had advised respondent by letter dated February 3, 2014, that WMATC had not received the report.

In a letter dated February 5, 2014, but received by WMATC on February 11, 2014, petitioner offers the following as grounds for waiving the \$150 late-annual-report fee: "I unexpectedly traded in my previous vehicle, a 2011 Ford E350 for a Ford Taurus and is (sic) presently completing the registration and processing of this vehicle."

This does not constitute grounds for failing to file an annual report. The annual report is more than a vehicle list. It also requires confirmation of current contact information, other carrier authority, and any changes in ownership or control. If petitioner possessed no vehicle in January 2014 it could have noted that in the report and still filed the report on time. The record, however, shows that petitioner's owner possessed the Taurus the entire month of January.

The sales invoice produced by petitioner states that petitioner's owner purchased the Taurus on December 14, 2013, and took delivery the same day.

The petition therefore is denied, and the \$150 late-fee payment received from petitioner on April 11, 2014, shall not be refunded.

² See WMATC Rule No. 8-01 (filing must be received by WMATC on or before deadline).

³ Although the space for indicating the title of the report's signer is blank, other records in the Commission's files identify the signer, Charles Revell, as petitioner's owner and president. The report is otherwise complete. The report, therefore, shall be accepted as is.

Carrier No. 1658, American DC Limousine

The record shows that petitioner timely paid its 2014 annual fee on January 22, 2014. Petitioner filed an incomplete 2014 annual report the same day. The report listed petitioner's six vehicles but failed to include any vehicle identification numbers and omitted all license plate numbers. Commission staff promptly issued notice of these significant omissions to petitioner by letter dated January 24, 2014. Staff additionally mailed reminders on February 3 and April 2. WMATC eventually received a complete vehicle list on April 7, 2014.

Petitioner offers the following as grounds for waiving the \$150 late-annual-report fee: "I ask you waive any late fees since my report and the dues were paid on time, before the deadline. We were not informed of any missing information until after the deadline which makes it impossible to reply on time."

Petitioner admits receiving staff's February 3 letter but offers no reason for waiting until April 7 to furnish the missing information. Thus, although we find the report complete as supplemented on April 7, 2014, petitioner's failure to promptly act on staff's February 3 letter leaves us with insufficient grounds for granting the requested relief.⁴

The petition therefore is denied, and the \$150 late-fee payment received from petitioner on June 4, 2014, shall not be refunded.

Carrier No. 1814, D N A Medical Transportation

The record shows that petitioner tendered its 2014 annual fee on April 30, 2014, and its 2014 annual report on May 1, 2014. Petitioner's president, Massan Kokou, explains that he was out of the country tending to a family matter. This does not constitute grounds for waiving the \$300 in combined late fees.

Generally, absence from the country will not support a waiver petition such as the one before us.⁵ In addition, Commission records show that petitioner was able to renew its commercial vehicle insurance policy in February 2014. There is nothing in the record in this proceeding that would explain why petitioner was able to submit a new WMATC Insurance Endorsement in February but unable to tender its annual report and fee until April/May.

The petition therefore is denied, and the \$300 in late fees shall remain due.

Carrier No. 1832, Metro Iway

The record shows that petitioner tendered its 2014 annual fee and report on February 3, 2014. Petitioner's CEO, Mrs. Madou Ble

⁴ See *In re Wholistic Services III, Inc.*, No. MP-10-042, Order No. 12,399 at 3 (May 10, 2010) (waiver denied where incomplete report filed timely but complete report not filed until six weeks after omissions notice was mailed).

⁵ See *in re Landjet Transp. LLC*, No. MP-10-042, Order No. 12,399 at 3 (May 10, 2010) (being out of town does not constitute good cause for waiving annual-fee late fee).

Ernest, explains that she sent an email to the Commission on October 9, 2013, in which she requested "a new account" so that she might "e-file" petitioner's annual report. This does not constitute grounds for waiving late fees under Regulation No. 67-03.

First, the Commission has a record of receiving emails from other persons on October 9, 2013, that were addressed to the specific WMATC inbox Mrs. Ernest claims she used, but the Commission has no record of receiving any emails from petitioner at that inbox that day.

Second, in late December 2013, the Commission reminded all carriers of their annual fee and annual report obligations and encouraged carriers to tender their 2014 annual reports and fee payments electronically through the Commission's website. If petitioner still intended to tender its annual report and fee payment through the Commission's website, this would have been the appropriate time to follow up on the alleged October 9 email.

Third, the Commission's December email informed all carriers that an invoice and blank report would be mailed in early January. Our records show that the mailing was sent out on January 3, 2014. Thus, while petitioner may have preferred to tender the report and fee electronically, its inability to do so did not prevent it from tendering its hard copy annual report and \$150 money order before the January 31, 2014, deadline, instead of after.

Finally, petitioner claims to have mailed both the report and a \$150 money order to the Commission on January 29, 2014, but the report is dated January 30, 2014. By waiting until the last moment to tender the report and fee by mail, petitioner assumed the risk that they would not arrive at WMATC by the deadline.⁶

The petition therefore is denied, and the \$300 in late fees paid on April 17, 2014, shall not be refunded.

THEREFORE, IT IS ORDERED:

1. That the above-captioned petitions are hereby consolidated for decision pursuant to Commission Rule No. 20-02.

2. That all petitions are denied.

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



William S. Morrow, Jr.
Executive Director

⁶ See WMATC Rule No. 8-01 (filing must be received by WMATC on or before deadline).