

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 15,051

IN THE MATTER OF:

Served September 12, 2014

Application of HOME HEALTH )  
TRANSPORTATION SERVICES, LLC, now ) Case No. AP-2013-317  
RING & RIDE, LLC, for a Certificate )  
of Authority -- Irregular Route )  
Operations )

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.

While this proceeding was pending, applicant, a Maryland limited liability company, changed its name from Home Health Transportation Services, LLC, to Ring & Ride, LLC, as shown in the acknowledgment of amendment issued by the Maryland Department of Assessments and Taxation and filed by applicant in this proceeding.

Article XI, Section 7(a), of the Washington Metropolitan Area Transit Regulation Compact<sup>1</sup> provides that the Commission shall issue a certificate of authority to any qualified applicant, authorizing all or any part of the transportation covered by the application, if the Commission finds that: (i) 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; and (ii) the transportation is consistent with the public interest. An applicant must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>2</sup>

Applicant verifies that it: (1) 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) 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) has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and

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<sup>1</sup> Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

<sup>2</sup> *In re Utour, LLC*, No. AP-11-026, Order No. 12,800 (Apr. 8, 2011).

Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Normally, such evidence would be sufficient to establish an applicant's fitness,<sup>3</sup> but this applicant has a history of regulatory violations.

#### **I. PAST VIOLATIONS**

According to Commission records, applicant formerly held WMATC Certificate No. 1683. Said certificate was revoked on December 13, 2011, in Order No. 13,080 for applicant's willful failure to pay a \$50 late fee in accordance with Regulation No. 67-03(c).<sup>4</sup> Applicant subsequently paid the fee, and the certificate was reinstated.

Certificate No. 1683 was revoked a second time on December 26, 2012, in Order No. 13,642 for applicant's willful failure to pay a \$50 late fee in accordance with Regulation No. 67-03(c).<sup>5</sup> Applicant subsequently paid the fee, and the certificate was reinstated.

Certificate No. 1683 was revoked a third time on August 26, 2013, in Order No. 14,186 for applicant's willful failure to file a complete annual report for 2013 as required by Regulation No. 60 and pay a \$150 fee as required by Regulation No. 67.<sup>6</sup> Order No. 14,186 gave applicant 30 days from the date of the order to remove all WMATC markings from applicant's vehicle and file an affidavit with supporting photographs verifying removal of vehicle markings, and 30 days to surrender Certificate No. 1683. The order also noted that the 2013 report and outstanding \$150 fee would remain due.

Applicant paid the late fee a few weeks later but waited until after filing this application to file a complete 2013 annual report, submit a vehicle-marking affidavit with photographs, and inform the Commission that Certificate No. 1683 could not be located.

While this proceeding was pending, Commission staff uncovered an additional ongoing violation. A Commission staff inspection of applicant's vehicle on December 20, 2013, revealed the continued presence of WMATC vehicle markings that should have been removed on or before September 25, 2013, pursuant to the Commission's revocation order of August 26, 2013.

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<sup>3</sup> Order No. 12,800 at 2.

<sup>4</sup> *In re Home Health Transp. Servs., LLC*, No. MP-11-092, Order No. 13,080 (Dec. 13, 2011).

<sup>5</sup> *In re Home Health Transp. Servs., LLC*, No. MP-12-099, Order No. 13,642 (Dec. 26, 2012).

<sup>6</sup> *In re Home Health Transp. Servs., LLC*, No. MP-12-099, Order No. 14,186 (Aug. 26, 2013).

## II. ASSESSMENT OF FORFEITURE

A non-WMATC carrier may not, by advertisement or otherwise, hold itself out as authorized to provide services requiring a WMATC certificate of authority.<sup>7</sup> This prohibition is codified in Commission Regulation No. 63-04(a), which provides that no carrier "regulated by the Commission or subject to such regulation shall advertise or hold itself out to perform transportation or transportation-related services within the Metropolitan District unless such transportation or transportation-related services are authorized by the Commission." Displaying an unauthorized WMATC carrier number thus violates Regulation No. 63-04(a).<sup>8</sup> Displaying "WMATC" without a number violates Regulation No. 63-04(a), as well.<sup>9</sup>

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.<sup>10</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>11</sup> The term "willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard whether or not one has the right so to act.<sup>12</sup>

We find that applicant knowingly and willfully violated Regulation No. 63-04(a) and accordingly shall assess a civil forfeiture of \$250.<sup>13</sup>

## III. LIKELIHOOD OF FUTURE COMPLIANCE

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

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<sup>7</sup> Order No. 12,800 at 2; *In re Jet Tours USA, Inc.*, No. AP-09-130, Order No. 12,443 (June 15, 2010); *In re Haymarket Transp., Inc.*, No. AP-08-181, Order No. 11,873 (Mar. 4, 2009); *In re Union, Inc.*, No. AP-07-013, Order No. 10,482 (May 10, 2007); *In re Associated Community Servs., Inc.*, No. AP-02-88, Order No. 6839 (Oct. 3, 2002).

<sup>8</sup> See Order No. 12,800 at 3 (display of unauthorized number violates Reg. No. 63-04); Order No. 12,443 (same); Order No. 11,873 (same); Order No. 10,482 (same); Order No. 6839 (same).

<sup>9</sup> See Order No. 12,800 at 3 (display of "WMATC" alone may be viewed as unlawful declaration of authority); *In re Adventures By Dawn L.L.C.*, No. AP-99-68, Order No. 5837 at 6 (Mar. 14, 2000)(same).

<sup>10</sup> Compact, tit. II, art. XIII, § 6(f)(i).

<sup>11</sup> Order No. 12,800; Order No. 12,443; Order No. 11,873; Order No. 10,482; Order No. 6839.

<sup>12</sup> Order No. 12,800; Order No. 12,443; Order No. 11,873; Order No. 10,482; Order No. 6839.

<sup>13</sup> See Order No. 12,800 (assessing \$250 forfeiture for displaying unauthorized WMATC markings on vehicle); Order No. 12,443 (same); Order No. 11,873 (same); Order No. 10,482 (same); Order No. 6839 (same).

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.<sup>14</sup>

The Commission has approved applications in the past where the applicant displayed a WMATC number without Commission approval but did not engage in unauthorized operations.<sup>15</sup> There is no evidence in the record of any unauthorized operations. Upon payment of the forfeiture assessed herein, the record will support a finding of prospective compliance fitness, subject to a one-year period of probation.<sup>16</sup>

Based on the evidence in this record, and in consideration of the terms of probation and other conditions prescribed herein, 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 pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against applicant in the amount of \$250 for knowingly and willfully violating Regulation No. 63-04(a).

2. That applicant is hereby directed to pay to the Commission within thirty days of the date of this order, by check or money order, the sum of two hundred fifty dollars (\$250).

3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1683 shall be reissued to Ring & Ride, LLC, 3 Bethesda Metro Center, Suite 700, Bethesda, MD 20814.

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.

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<sup>14</sup> Order No. 12,800 at 3.

<sup>15</sup> See Order No. 12,800 (approving application despite unauthorized display of WMATC markings); Order No. 12,443 (same); Order No. 11,873 (same); Order No. 10,482 (same); Order No. 6839 (same).

<sup>16</sup> See Order No. 12,800 (same); Order No. 12,443 (same); Order No. 11,873 (same); Order No. 10,482 (same).

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 applicant shall be placed on probation for a period of one year commencing with the issuance 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.

7. 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 BROWN:



William S. Morrow, Jr.  
Executive Director