

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 16,027

IN THE MATTER OF:

Investigation of Violation of Title ) II, Article 14 of the Compact, and ) Commission Regulation No. 55, ) Directed to: )	Served December 7, 2015
MEDICAL TRANSPORTATION SYSTEMS ) (MTS) LLC, WMATC No. 2630 )	Case No. MP-2015-159
IBEX TRANSPORTATION LLC, WMATC ) No. 2687 )	Case No. MP-2015-160
JONATHAN LEE GERITY SR, Trading as ) RIVERSIDE TRANSPORTATION, WMATC ) No. 2735 )	Case No. MP-2015-161

This matter is before the Commission on the response of Ibox Transportation LLC to Order No. 15,853, served September 18, 2015, and on the failure of the other two respondents to respond to that order, which order directed each respondent to show cause why the Commission should not assess a civil forfeiture and/or order each respondent to cease and desist furnishing passenger transportation in violation of the Commission's tariff requirements.

**I. BACKGROUND**

Under Title II, of the Compact, Article XI, Section 14(c), "A carrier may not charge a rate or fare for transportation subject to [the Compact] other than the applicable rate or fare specified in a tariff filed by the carrier under [the Compact] and in effect at the time."<sup>1</sup> Under Regulation No. 55, a carrier must file a general tariff if it offers standardized service at universally applicable rates.<sup>2</sup> A carrier must file a contract tariff if it offers tailored service on a continuing basis at negotiated rates.<sup>3</sup>

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<sup>1</sup> See also Commission Regulation No. 55-02 ("[n]o carrier shall demand, receive, or collect any compensation for any transportation or transportation-related service, except such compensation as is specified in its currently effective tariff for the transportation or transportation-related service provided.")

<sup>2</sup> Regulation No. 55-07; *In re Better Business Connection, Inc., t/a BBC Express*, No. MP-13-028, Order No. 14,594 at 11 (Feb. 26, 2014).

<sup>3</sup> Regulation No. 55-08; Order No. 14,594 at 11.

Since October 2007, Medical Transportation Management, Inc., (MTM) has managed the District of Columbia Medicaid (DC Medicaid) non-emergency medical transportation program, currently overseen by the District of Columbia Department of Health Care Finance (DHCF). MTM does not directly provide transportation but manages scheduling, invoicing, and other administrative functions. MTM relies on WMATC certificated carriers to furnish the transportation. Earlier this year, the Commission obtained from MTM a list of WMATC-certificated carriers that have negotiated agreements with MTM to provide transportation under the DC Medicaid transportation program, including the carriers named in the caption above.

As of July 17, 2015, WMATC had been informed by MTM that all three respondents were MTM providers, but none had filed an acceptable MTM contract tariff with WMATC as of that date. By letter dated July 20, 2015, Commission staff advised each respondent of the Commission's tariff filing requirements and admonished respondents to file an acceptable contract tariff covering their operations with MTM on or before August 24, 2015. On August 28, 2015, WMATC obtained an updated list of providers from MTM. Respondents' names were on that list, but none had yet filed an acceptable MTM tariff with WMATC.

Accordingly, Order No. 15,853, gave respondents 30 days to show cause why they should not each be assessed a civil forfeiture and/or ordered to cease and desist providing passenger transportation for MTM, for failure to comply with Article XI, Section 14, of the Compact and Commission Regulation No. 55.

Respondent Ibex Transportation LLC, WMATC Carrier No. 2687, responded on October 14, 2015. Respondents Medical Transportation Systems (MTS) LLC, WMATC Carrier No. 2630, and Jonathan Lee Gerity Sr, trading as Riverside Transportation, WMATC Carrier No. 2735, have yet to respond.

## **II. IBEX TRANSPORTATION RESPONSE**

Ibex Transportation LLC filed an acceptable contract tariff covering its operations with MTM on October 14, 2015, but Ibex Transportation has yet to explain why a civil forfeiture should not be assessed for violating Article XI, Section 14, of the Compact and Commission Regulation No. 55 prior to the effective date of the new tariff.

## **III. FINDINGS AND ASSESSMENT OF FORFEITURES**

The Commission may investigate on its own motion a fact, condition, practice, or matter to determine whether a person has violated or will violate a provision of the Compact or a rule, regulation, or order.<sup>4</sup>

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<sup>4</sup> Compact, tit. II, art. XIII, § 1(c).

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>5</sup>

The term "knowingly" means with perception of the underlying facts, not that such facts establish a violation.<sup>6</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>7</sup>

We find that each respondent knowingly and willfully performed passenger transportation for MTM in 2015 without a valid contract tariff on file with WMATC. We further find that each respondent has failed to offer any explanation for engaging in such conduct.

Accordingly, we shall assess a \$250 civil forfeiture against each respondent for knowingly and willfully violating Article XI, Section 14, of the Compact and Commission Regulation No. 55.<sup>8</sup>

#### **IV. CEASE AND DESIST ORDER**

If the Commission finds that a respondent has violated a provision of the Compact or any requirement established under it, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.<sup>9</sup>

Because neither Medical Transportation Systems (MTS) nor Jonathan Lee Gerity Sr, trading as Riverside Transportation has a valid MTM contract tariff on file with WMATC, each of these two respondents shall cease and desist transporting passengers for MTM until such time as each has filed a contract tariff with the Commission covering such service and such tariff is in effect.<sup>10</sup>

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent, Medical Transportation Systems (MTS) LLC, in the amount of \$250 for

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<sup>5</sup> Compact, tit. II, art. XIII, § 6(f).

<sup>6</sup> *In re First Choice Health Servs. LLC*, No. MP-11-075, Order No. 13,136 at 3 (Jan. 31, 2012).

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *See Id.* at 6-7 (Jan. 31, 2012) (assessing \$250 per year for failing to file MTM tariff).

<sup>9</sup> Compact, tit. II, art. XIII, § 1(d).

<sup>10</sup> *See In re Battle's Transp., Inc.*, No. MP-08-085, Order No. 11,427 (June 25, 2008) (directing carriers without MTM tariffs to cease and desist MTM service).

knowingly and willfully violating Article XI, Section 14, of the Compact and Commission Regulation No. 55.

2. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent, Ibex Transportation LLC, in the amount of \$250 for knowingly and willfully violating Article XI, Section 14, of the Compact and Commission Regulation No. 55.

3. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a civil forfeiture against respondent, Jonathan Lee Gerity Sr, trading as Riverside Transportation, in the amount of \$250 for knowingly and willfully violating Article XI, Section 14, of the Compact and Commission Regulation No. 55.

4. That each respondent is hereby directed to pay to the Commission within 30 days of the date of this order, by money order, certified check, or cashier's check, the sum of two hundred fifty dollars (\$250).

5. That respondent Medical Transportation Systems (MTS) LLC shall cease and desist performing any passenger transportation for Medical Transportation Management, Inc., until such time as an acceptable contract tariff covering such service is filed with the Commission and in effect.

6. That respondent Jonathan Lee Gerity Sr, trading as Riverside Transportation, shall cease and desist performing any passenger transportation for Medical Transportation Management, Inc., until such time as an acceptable contract tariff covering such service is filed with the Commission and in effect.

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



William S. Morrow, Jr.  
Executive Director