

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 16,040

IN THE MATTER OF:

Served December 10, 2015

Investigation of Violation of Title)
II, Article 14 of the Compact, and)
Commission Regulation No. 55,)
Directed to: 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 respondent to Order No. 16,027, served December 7, 2015, which directed respondent to cease and desist transporting passengers under an expired contract tariff.

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."¹ Under Regulation No. 55, a carrier must file a general tariff if it offers standardized service at universally applicable rates.² A carrier must file a contract tariff if it offers tailored service on a continuing basis at negotiated rates.³

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 respondent.

As of July 17, 2015, WMATC had been informed by MTM that respondent was an MTM provider, but respondent had not filed an acceptable MTM contract tariff with WMATC as of that date. By letter

¹ 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.")

² 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).

³ Regulation No. 55-08; Order No. 14,594 at 11.

dated July 20, 2015, Commission staff reminded respondent of the Commission's tariff filing requirements and admonished respondent to file an acceptable contract tariff covering his operations with MTM on or before August 24, 2015. On August 28, 2015, WMATC obtained an updated list of providers from MTM. Respondent's name was on that list, but respondent still had not filed an acceptable MTM tariff with WMATC.

Accordingly, Order No. 15,853, served September 18, 2015, gave respondent 30 days to show cause why respondent should not 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. As of December 7, 2015, it appeared that respondent had yet to respond to Order No. 15,853. The Commission accordingly issued Order No. 16,027, assessing a \$250 forfeiture against respondent and directing respondent to cease and desist transporting passengers for MTM.

Later that same day, respondent furnished proof of having electronically filed an MTM contract tariff, and having electronically paid the \$75 filing fee, on October 14, 2015. A search of the Commission's electronic files revealed that because the filing exceeded the Commission's size limits it was not routed to the usual tariff filing folder and thus was not discovered until December 7 at respondent's prompting. As it turns out, the October 14 filing was incomplete, but it has since been supplemented and accepted for filing as of December 7, and respondent has paid the \$250 forfeiture.

The Commission's contract tariff cover form provides for a minimum delay of seven days in the effective date of a new tariff as measured from the acceptance date. Under the circumstances presented here, and considering that an earlier effective date would be favorable for MTM riders, we will waive the seven-day waiting period and make the new tariff effective immediately,⁴ thereby lifting the cease and desist order as stipulated in Order No. 16,027.

IT IS SO ORDERED.

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



William S. Morrow, Jr.
Executive Director

⁴ See *In re D. C. Transit Sys, Inc.*, Order No. 1262 (June 29, 1973) (waiving tariff waiting period where favorable to riders); *In re Airport Transp., Inc.*, No. 204, Order No. 969 (July 30, 1969) (same); accord, *In re On-Time American Transp., Inc.*, No. AP-90-43, Order No. 3562 (Sept. 21, 1990) (waiving tariff waiting period); *In re Eyre's Bus Serv., Inc.*, No. MP-82-14, Order No. 2389 (Jan. 5, 1983).