

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,269

IN THE MATTER OF:

Served March 30, 2016

Application of ALTID LLC for a) Case No. AP-2015-318
Certificate of Authority --)
Irregular Route Operations)

This matter is before the Commission on applicant's response to Order No. 16,180, served February 4, 2016, which dismissed this proceeding for applicant's failure to comply with the Commission's application requirements. 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 email sent January 12, 2016, applicant was required to furnish supplemental information on or before January 26, 2016, pursuant to Commission Regulation No. 54-04(b). Applicant failed to respond. Accordingly, the application was dismissed February 4, 2016.

On February 5, 2016, applicant filed a request to reopen this proceeding. The request is accompanied by substantially the 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 Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

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).

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.

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.

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.

III. CONTROL RELATIONSHIP APPROVAL

Commission records show that applicant's president, Masilamony Pauliah, also is president of Reliable Medical Transport, LLC, WMATC Carrier No. 892.

Under Article XII, Section 3(a)(iii), of the Compact, "a carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means." This provision of the Compact is implicated in that Mr. Pauliah will acquire control of "another carrier that operates in the Metropolitan District" upon the issuance of a WMATC certificate of authority to applicant.⁵

Under Article XII, Section 3(c), of the Compact, if the Commission finds that the proposed transaction is consistent with the public interest, the Commission shall issue an order authorizing the transaction. The Commission's analysis focuses on the fitness of the acquiring party, the resulting competitive balance, and the interest of affected employees.⁶ The Commission has consistently held that a finding of an applicant's fitness permits an inference of the

⁵ See *In re Prime Transp., Inc.*, No. AP-15-185, Order No. 16,032 at 2 (Dec. 7, 2015) (assessing control, on similar facts, as of cert. issuance).

⁶ *Id.* at 2; Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960).

acquiring party's fitness⁷ and that the primary concern when assessing the effect on competition of a transaction is whether the transaction will increase the acquiring party's market share.⁸

The Commission has found the instant applicant fit, and competition is not an issue here because issuance of WMATC operating authority to applicant will not in and of itself increase the share of the WMATC-regulated market controlled by Mr. Pauliah. As for the effect on employees, applicant's employees have an obvious interest in applicant obtaining valuable operating rights,⁹ and there is no evidence that the expansion of operations through applicant is intended to disadvantage the employees of Reliable Medical Transport.¹⁰ Indeed, Mr. Pauliah states that upon issuance of operating authority to applicant, the employees of Reliable Medical Transport will be hired by applicant and Reliable Medical Transport will close.

The Commission therefore finds that the issuance of WMATC authority to applicant is consistent with the public interest within the meaning of Article XII, Section 3(c), of the Compact.

IV. CONCLUSION

In closing, applicant is admonished to keep its WMATC assets, books, finances and operations completely separate from those of Reliable Medical Transport, LLC.¹¹ Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.¹²

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. 2882 shall be issued to Altid LLC, 17618 Sir Galahad Way, Ashton, MD 20861.

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.

⁷ *Id.* at 2.

⁸ *Id.* at 2.

⁹ *Id.* at 2.

¹⁰ See Pub. L. No. 86-794, § 4, 74 Stat. at 1050 (Commission may not approve acquisition of control to break lawful strike).

¹¹ See Order No. 16,032 at 3 (requiring commonly-controlled carriers to keep assets, books, finances, and operations separate).

¹² *Id.* at 3.

4. That applicant is hereby directed to file the following documents and present its revenue vehicle(s) for inspection 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.

5. 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 HOLCOMB AND DORMSJO:



William S. Morrow, Jr.
Executive Director