

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,124

IN THE MATTER OF:

Served August 1, 2017

Application of RMA COACH, LLC,)
WMATC No. 676, for Approval to) Case No. AP-2017-007
Acquire or Operate the Property of)
RELIABLE LIMOUSINE AND BUS SERVICE,)
LLC)

By application filed January 10, 2017, RMA Coach, LLC, WMATC Carrier No. 676, seeks Commission approval pursuant to Article XII, Section 3(b), of the Compact to purchase, lease, or contract to operate a substantial part of the property or franchise of Reliable Limousine and Bus Service, LLC, (RLBS).

According to the application, the assets to be acquired include a website, a phone number, and a customer list.¹

Temporary approval of said transaction was issued pursuant to Article XII, Section 3(d), of the Compact in Order No. 16,856, on March 1, 2017, in Case No. AP-2017-008.

The application in Case No. AP-2017-07 is unopposed.

I. SCOPE & STANDARD OF APPROVAL

The Washington Metropolitan Area Transit Regulation Compact,² (Compact), applies to: "the transportation for hire by any carrier of persons between any points in the Metropolitan District,"³ excluding "transportation solely within the Commonwealth of Virginia."⁴

¹ The rmalimo.com website describes the transaction as an acquisition of "transportation commitments" and a "merge".

² 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).

³ Compact, tit. II, art. XI, § 1. The Metropolitan District includes: the District of Columbia; the cities of Alexandria and Falls Church of the Commonwealth of Virginia; Arlington County and Fairfax County of the Commonwealth of Virginia, the political subdivisions located within those counties, and that portion of Loudoun County, Virginia, occupied by the Washington Dulles International Airport; Montgomery County and Prince George's County of the State of Maryland, and the political subdivisions located within those counties Compact, tit. I, art. I.

⁴ Compact, tit. II, art. XI, § 3(g).

According to Article XII, Section 3(a), of the Compact: A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to -

- (i) consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;
- (ii) purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District; or
- (iii) acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

The Commission may approve an application under Article XII, Section 3, if it finds that the proposed transaction is consistent with the public interest.⁵ The public interest analysis focuses on the fitness of the acquiring party, the resulting competitive balance, and the interest of affected employees.⁶

II. PUBLIC INTEREST ANALYSIS

A. Fitness of Acquiring Party

An existing WMATC carrier is entitled to a presumption of fitness,⁷ as is an acquiring party that controls an existing WMATC carrier.⁸ RMA Coach is an existing WMATC carrier and therefore entitled to the presumption. And so is its owner. There is no evidence in the record that, for the purpose of determining whether the proposed transaction is in the public interest, tends to rebut that presumption.

B. Effect on Competition

The primary concern when assessing the effect on competition of a transaction under Article XII, Section 3, is whether the transaction will increase the acquiring party's market share.⁹ Transactions which do not increase market share give little pause for

⁵ Compact, tit. II, art. XII, § 3(c).

⁶ *In re Better Bus. Connection, Inc., t/a BBC Express*, No. AP-15-107, Order No. 16,362 at 2 (May 17, 2016); *In re City Sightseeing Wash. DC Inc., t/a Open Top Sightseeing Wash., DC*, No. AP-11-101, Order No. 12,969 at 2 (Aug. 30, 2011); *In re Academy Express, L.L.C., t/a Academy*, No. AP-11-079, Order No. 12,932 (Aug. 2, 2011); *In re First Transit, Inc.*, No. AP-07-194, Order No. 11,729 (Dec. 4, 2008); *In re Veolia Transp. Servs., Inc.*, No. AP-07-001, Order No. 11,580 at 2 (Sept. 18, 2008); Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC CODE ANN. § 9-1103.04 (2017)).

⁷ Order No. 16,362 at 2; Order No. 12,969 at 2.

⁸ Order No. 16,362 at 2; Order No. 12,969 at 2.

⁹ Order No. 16,362 at 4; Order No. 11,580 at 2-3.

concern, and the Commission will approve even those transactions which tend to increase market share as long as there is sufficient post-transaction competition to check any adverse effects that such transactions otherwise might produce.¹⁰

The Commission defines the relevant market in terms of the common transportation service(s) provided by the parties to the transaction under review and uses the total number of WMATC carriers providing the relevant service and the size of their fleets as a proxy for determining overall market size and derivatively the approximate pre- and post-transaction market shares of the parties at issue.¹¹

Our analysis takes into consideration the fleet of RMA Coach's commonly-controlled affiliate, Errands Plus, Inc., trading as RMA Chauffeured Transportation Service, WMATC Carrier No. 287.

Our analysis also takes into consideration that WMATC tariffs filed by Errands Plus and RMA Coach offer client directed service at hourly rates¹² and that internet advertising records and other documents gathered by the Commission during a recent investigation of RLBS's operations in the Metropolitan District indicate that RLBS provided similar service to its customers. The vehicles of carriers that do not offer such service have been disregarded.

According to Commission records, the aggregate number of vehicles in the fleets of Errands Plus and RMA Coach combined stood at 87 vehicles at or about the time RMA Coach filed the instant application in January 2017. Errands Plus possessed 53 vehicles seating fewer than 10 persons each. RMA Coach possessed 11 vehicles seating from 10 to 15 persons each, 21 vehicles seating from 16 to 40 persons each, and two motorcoaches seating more than 40 persons each. The RLBS fleet in January 2017 was reported on the Maryland Public Service Commission website as numbering 78 and composed of the same four types of vehicles, in roughly the same proportions.

Preliminarily, we note that analyzing market share in terms of the aggregate number of vehicles operated by Errands Plus and RMA

¹⁰ Order No. 16,362 at 4; Order No. 11,580 at 3.

¹¹ Order No. 16,362 at 7; see Order No. 12,969 at 4 (discussing individually-ticketed sightseeing market concentration); Order No. 12,932 at 2 (discussing charter market concentration); Order No. 11,729 at 2-3 (discussing contract charter market v. public charter market).

¹² Errands Plus also offers airport shuttle service, but the market for such service is, and has been for many years, highly competitive. See *In re Washington Shuttle, Inc., t/a Supershuttle*, No. AP-96-13, Order No. 4966 at 5-8 (Nov. 8, 1996) (discussing intermodal competition in airport ground transportation market, including from motorcoaches, taxicabs, limousines, vans, and sedans); see also *In re Rulemaking to Amend Regulation Nos. 51-09 & 58-02(b)*, No. MP-15-198, Order No. 15,986 at 3 (Nov. 19, 2015) (noting existence of over 10,000 Uber drivers and approximately 11,000 licensed taxicabs operating in Washington Metropolitan Area).

Coach, across all vehicle types, might not be the best indicator of market power on the record before us. As the chart in the appendix shows, analyzing the hourly charter market share held by Errands Plus and RMA Coach across all vehicle types would seem to indicate a lack of significant market share both before and after the proposed transaction. And if we examine the hourly charter market segment by segment, as defined by vehicle seating capacity, we see a similar absence of evidence of significant market share in three of the four vehicle categories: 10-15, 16-40, and over-40. A different picture emerges, however, with respect to the under 10 category.

The hourly charter market for WMATC vehicles seating fewer than 10 persons each consists of over 350 vehicles. Errands Plus reported 53 such vehicles on its 2017 annual report. Commission staff estimates the number of such vehicles held by RLBS in early January 2017 to be 42. Expanding from 53 vehicles to an estimated 95 vehicles in a 350-vehicle market segment, an increase in market share of 12 percentage points, from 15% to 27% of the segment, is cause for concern, at least initially. We also must consider, however, actual fleet growth since the date we granted RMA Coach temporary approval to operate the assets of RLBS while this application was pending.

As noted above, the total number of all vehicles in the fleets of RMA Coach and Errands Plus combined was 87 in January 2017. Also as noted above, WMATC granted RMA's temporary approval application on March 1. In order to accommodate all RLBS customers during the temporary approval phase, we would expect to see the combined fleets of RMA Coach and Errands Plus grow by 78, for a new grand total of 165 combined. But the number of vehicles held by RMA Coach and Errands Plus today stands at only 100, an increase of only 13 after more than four months. Even if all 13 vehicles seat fewer than 10 persons each, the market share held by RMA Coach and Errands Plus in this segment would have grown only three percentage points, from 15% to 18%.

What may help explain this development is that although RMA Coach acquired the RLBS customer list and apparently some existing RLBS contracts, there is no guarantee that all RLBS customers are becoming customers of Errands Plus/RMA Coach. Indeed, A Goff Transportation LLC, an affiliate of A Goff Limousine & Bus Company LLC, WMATC Carrier No. 2963, has been actively soliciting RLBS customers while this application has been pending through a website advertising service under the "Reliable Limousine & Bus Service" trade name.¹³

Accordingly, we find that sufficient post-transaction competition exists to check any adverse effects that the proposed transaction otherwise might produce.

¹³ See <https://reliablelimomd.com/>.

C. Effect on Employees

According to applicant, there will be no effect on the employees of RMA Coach, and RLBS employees will have the option of working for RMA Coach. There is nothing in the record to suggest that employees of Errands Plus will be affected.

III. CONCLUSION

On the record before us, we find that the proposal of RMA Coach, LLC, to acquire a substantial part of the property or franchise of Reliable Limousine and Bus Service, LLC, is consistent with the public interest. Accordingly, we approve the application.

IT IS SO ORDERED.

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



William S. Morrow, Jr.
Executive Director

**Hourly Rate Charter Carriers
RMA Coach/Errands Plus Market Share Analysis
Before and After Proposed Transaction in
WMATC Case No. AP-2017-007**

----- Number of Vehicles by Seating Capacity -----					
Carrier	Under 10	10-15	16-40	Over 40	Total
RMA Coach	0	11	21	2	34
Errands Plus	53	0	0	0	53
RMA/EP	53	11	21	2	87
RLBS	42	10	20	6	78
RMA/EP/RLBS	95	21	41	8	165
Others	264	190	445	1500	2399
All	<u>359</u>	<u>211</u>	<u>486</u>	<u>1508</u>	<u>2564</u>

----- RMA Coach/Errands Plus Market Share -----					
	Under 10	10-15	16-40	Over 40	Total
Before Transaction	14.8%	5.2%	4.3%	0.1%	3.4%
After Transaction	26.5%	10.0%	8.4%	0.5%	6.4%