

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3774

IN THE MATTER OF:

Served June 10, 1991

Application of KOWALSKI MEDICAL)
SUPPORT SERVICES, INC., for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-90-49

By application filed April 10, 1991, Kowalski Medical Support Services, Inc. (KMSS or applicant), seeks a Certificate of Authority to transport passengers in irregular route operations between points in the Metropolitan District.

By Order No. 3678, served April 15, 1991, and incorporated herein by reference, notice of this application was given, and applicant was directed to publish further notice in a newspaper of general circulation in the Metropolitan District no later than April 23, 1991. Order No. 3678 directed applicant to file an affidavit of publication to that effect. Applicant complied with these directions and no protests or comments have been filed in this case. No person has requested a hearing in this matter. Therefore, the matter is now ripe for decision.

SUMMARY OF EVIDENCE

Applicant is a Maryland close corporation, the stock of which is held jointly by Michael Kowalski, applicant's president, and Susan Kowalski.

Applicant proposes to transport passengers for hire over irregular routes between points in the Metropolitan District. The proposed transportation would emphasize service for handicapped or disabled persons including those who qualify for medicaid or medical assistance. Applicant would initiate the proposed transportation using two vehicles each having a manufacturer's designed seating capacity of 15 persons or less (including the driver). The vehicles will be owned by applicant. Applicant's president states that vehicles will be specially modified and equipped with devices for the safe loading and unloading of persons in wheelchairs and to secure wheelchair patients in transit.

Vehicles would be subjected to a preventive maintenance regime based on the manufacturer's recommendation for service. Arrangements have been made for back-up service and repairs. Each driver would be required to have a Maryland Class D license and a clean driving record. Drivers would be given training in CPR and the use of the wheelchair lift mechanism. Drivers having no accidents or adverse customer incidents during the calendar year would receive a cash bonus.

Applicant has not been assigned a safety rating by the United States Department of Transportation (USDOT). However, applicant's president certifies on KMSS's behalf that it has access to and is familiar with all USDOT regulations relating to safe operation of commercial vehicles and safe transportation of passengers for hire and will comply with those regulations. Applicant's president further certifies on KMSS's behalf that KMSS has access to and is familiar with the Compact and the Commission's rules and regulations, that it will comply with them, and that there are no proceedings, either completed or pending, in which KMSS has been found unfit or in which its fitness is under investigation by this Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission, or USDOT.

With its application KMSS filed a balance sheet as of February 26, 1991, showing current assets of \$44,000, including \$43,830 cash, and no fixed assets. The balance sheet lists no current liabilities, long-term liabilities consisting of a shareholder's note for \$43,000, and equity of \$1,000. Applicant has been in existence since February 1990, but has no operating history. For the first 12 months of WMATC operations, applicant projects operating income of \$106,600 and operating expenses including depreciation and taxes of \$83,682, resulting in a projected operating ratio of .785.

In support of the application, KMSS's president states, "[t]he proposed service will transport handicapped and/or disabled persons around the Washington D.C. Metropolitan Area including Montgomery County, Prince George's County, Fairfax County, Arlington County, and Washington D.C." The application is supported by two public witnesses.

Harold Wade, supervisor of motor vehicle transportation at the National Institutes of Health (NIH), attests that NIH requires transportation in vans equipped with wheelchair lifts between passengers' residences, on the one hand, and, on the other, treatment facilities in the Metropolitan District. Such transportation is required on a one-way basis between 12 and 14 times a month. Chris A. Sullivan, office manager for Montgomery Community Magnetic Imaging Center (MCMIC) attests that transportation in vehicles having either wheelchair or stretcher capabilities is required between MCMIC, Olney, MD (Montgomery County), on the one hand, and, on the other, hospitals and nursing homes in the Metropolitan District. MCMIC requires such transportation approximately 10 times a week.

DISCUSSION AND CONCLUSIONS

This case is governed by the Compact, Title II, Article XI, Section 7(a) which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant . . . if it finds that -
(1) the applicant is fit, willing, and able to perform that transportation properly, conform to the

provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and (ii) that the transportation is consistent with the public interest.

Based on a thorough review of the record in this case, the Commission finds applicant to be fit operationally, financially, and as to compliance. The Commission further finds that the proposed transportation is consistent with the public interest. Consequently, KMSS's application will be granted.

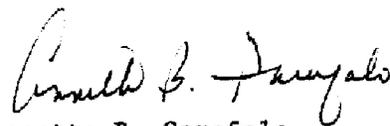
THEREFORE, IT IS ORDERED:

1. That Kowalski Medical Support Services, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 persons or fewer, including the driver.

2. That Kowalski Medical Support Services, Inc., is hereby directed, within 30 days of the date of this order or such additional time as the Commission may direct or allow, to (a) acquire and file evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) file five copies of its tariff, as proposed, in accordance with Commission Regulation No. 55; (c) file an equipment list stating the make, model, serial number, vehicle number, license plate number (with jurisdiction), seating capacity and modifications and equipment for the safe loading and unloading of person in wheelchairs and to secure wheelchair-bound passengers in transit for each vehicle to be used in revenue operations in the Metropolitan District; (d) file, for each vehicle to be used in revenue operations in the Metropolitan District, evidence of ownership or a lease as required by Commission Regulation No. 62; (e) file its official business address as discussed in Commission Regulation No. 68; (f) file a list of the names, business addresses, and titles of all its officers, directors, and principal shareholders showing respective holdings; and (g) file an affidavit of identification of vehicles pursuant to Commission Regulation No. 61 for which purpose WMATC No. 182 is hereby assigned.

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the materials required by the Commission, Certificate of Authority No. 182 shall be issued to Kowalski Medical Support Services, Inc., in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON:



Annette B. Garofalo
Acting Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

CERTIFICATE OF AUTHORITY

NO. 182

Kowalski Medical Support Services, Inc.
7626 Creekstone Court
Gaithersburg, Maryland 20877

By Order No. 3774 of the Washington Metropolitan Area Transit Commission issued June 10, 1991;

WHEREAS, the above-named carrier is entitled to receive authority to transport passengers within the Washington Metropolitan Area Transit District;

THIS CERTIFICATE OF AUTHORITY is hereby issued to the said carrier as evidence of the authority to engage in the for-hire transportation of passengers by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier:

IRREGULAR ROUTES, transporting passengers between points in the Washington Metropolitan Area Transit District;

RESTRICTED TO (1) operations conducted according to the said carrier's applicable tariff on file with the Commission and (2) transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver; and

RESTRICTED AGAINST (1) transportation solely within the Commonwealth of Virginia and (2) any passenger transportation for hire on an individual fare paying basis in competition with any existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority.

THIS CERTIFICATE OF AUTHORITY DOES NOT AUTHORIZE ANY TRANSPORTATION BY ANY PERSON OTHER THAN THE CARRIER NAMED HEREON.

THIS CERTIFICATE OF AUTHORITY IS NOT VALID UNLESS THE CARRIER NAMED HEREON IS IN COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THE COMMISSION.

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Kowalski Medical Support Services, Inc.
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IT IS A FURTHER CONDITION of this certificate of authority that the carrier named hereon shall (a) provide safe and adequate transportation service, equipment, and facilities; and (b) observe and enforce Commission regulations.