

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6515

IN THE MATTER OF:

Served January 29, 2002

Application of RMA COACH, LLC,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2001-113

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

RMA Coach is controlled by Robert M. Alexander, who also controls Errands Plus, Inc., trading as RMA Chauffeured Transportation Service, WMATC Carrier No. 287. Errands Plus currently operates minibuses, vans and stretch limousines under its unrestricted certificate of authority and insures all of those vehicles for \$5 million as required by Commission Regulation No. 58. Errands Plus proposes to transfer its minibuses to RMA Coach upon our approval of this application and issuance of operating authority to RMA Coach. Errands Plus would then be free to operate its remaining vehicles under a restricted certificate and insure them for only \$1.5 million. We have already approved Errands Plus's application for restrictive amendment and, as requested by Errands Plus, made that approval contingent on our approval of this application.¹

Applications for certificates of authority are governed by Title II of the Compact, Article XI, Section 7. Applications for approval of common control are governed by Article XII, Section 3.

I. CERTIFICATE OF AUTHORITY

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 proposes commencing hourly-rate operations with five minibuses to be leased from Errands Plus, Inc.

Applicant filed a consolidated balance sheet as of October 31, 2001, showing assets of \$2,143,738; liabilities of \$1,677,791; and equity of \$465,947. Applicant's projected operating statement for the first twelve months of WMATC operations shows revenue of \$4,470,029; expenses of \$4,651,379; and a net loss of \$181,350.

¹ In re Errands Plus, Inc., t/a RMA Chauffeured Transp. Serv., No. AP-01-112, Order No. 6438 (Dec. 4, 2001).

Although applicant's projected net loss raises the issue of applicant's financial fitness, the record supports a finding in applicant's favor. An applicant must demonstrate financial fitness by showing the present ability to sustain operations during its first year under WMATC authority.² Applicant is a going concern projecting a net positive cash flow during the first twelve months of WMATC operations. We have found other carriers financially fit under similar circumstances.³

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

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.

II. COMMON CONTROL

Article XII, Section 3(a)(iii) & (c), authorizes the Commission to approve common control of two or more WMATC carriers, through ownership of stock or other means, if the Commission finds that common control is consistent with the public interest. The public interest analysis focuses on the fitness of the controlling party, the resulting competitive balance, and the interest of affected employees.⁴

The three public interest factors warrant approval in this case. First, a presumption of the controlling party's fitness obtains where the controlling party, in this case Mr. Alexander, controls an existing WMATC carrier.⁵ There is nothing in the record to rebut that presumption in this case. Second, simply transferring assets from one member of a controlled group to another will not increase the controlling parties' market share, which is the primary concern when assessing the effect of common control on competition.⁶ In fact, the insurance premium savings to the controlled group from not having to insure vans and limousines for \$5 million should make the members of the group more competitive with other WMATC carriers. Third, applicant avers that the separation of the same operations into two

² In re Associated Community Servs., Inc., No. AP-01-51, Order No. 6320 (Aug. 21, 2001); In re UNICCO Serv. Co., No. AP-98-36, Order No. 5435 (Oct. 19, 1998).

³ E.g., Order No. 6320 (same); Order No. 5435 (same).

⁴ Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC Code Ann. § 1-2414 (1999)); In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996).

⁵ In re Montgomery Assisted Transportation, Inc., No. AP-01-07, Order No. 6167 (Mar. 30, 2001).

⁶ In re Coach One, Inc., t/a Exec. Coach, No. AP-98-06, Order No. 5295 (Mar. 19, 1998).

commonly controlled companies will have no adverse effect on employees.

Each carrier is admonished to keep its assets, books, finances and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.⁷

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 676 shall be issued to RMA Coach, LLC, 6010 Executive Boulevard, Suite 101, Rockville, MD 20852.

2. 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.

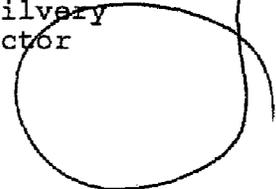
3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating 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 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; (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; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. 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 YATES, LIGON, AND MILLER:



William H. McGilvery
Executive Director



⁷ Order No. 6167.

