

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7245

IN THE MATTER OF:

Served June 16, 2003

Application of ALTERNA-TRANS INC.)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2003-36

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.

Applicant is owned by the same persons that own Challenger Transportation, Inc., WMATC Carrier No. 568.

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 operations with five sedans. Applicant's proposed tariff contains rates for transportation under a contract with LogistiCare Solutions, LLC, WMATC Carrier No. 524.

LogistiCare has a contract with the Washington Metropolitan Area Transit Authority (WMATA). The contract requires LogistiCare to operate a reservation system for the benefit of disabled individuals participating in WMATA's MetroAccess program and to ensure that program participants receive timely and adequate transportation service. The MetroAccess program is WMATA's means of complying with the Americans with Disabilities Act of 1990,¹ which in pertinent part prohibits discrimination against the disabled by public transportation providers.

¹ 42 U.S.C. § 12101, et. seq. (1999).

LogistiCare subcontracts much of the transportation service to other WMATC carriers and has selected applicant to provide MetroAccess service in the District of Columbia and Montgomery County, Maryland.

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.

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.²

The three public interest factors warrant approval in this case. First, as owners of an existing WMATC carrier, applicant's owners are entitled to a presumption of fitness.³ There is nothing in the record to rebut that presumption in this case. Second, there should be no adverse effect on competition where, as here, the owners of an existing WMATC carrier decide to expand service in the Metropolitan District through a newly created affiliate instead of a new division.⁴ Finally, the existing employees of Challenger should not be adversely affected by our approval of this application. Launching a new service through an affiliate tends to shield employees

² Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC CODE ANN. § 9-1103.01 (2001)); 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).

³ In re Montgomery Assisted Transportation, Inc., No. AP-01-07, Order No. 6167 (Mar. 30, 2001).

⁴ Id. Applicant will operate in DC and lower Montgomery County, MD, using its own vehicles. Challenger will continue operating in Montgomery County, MD, using vehicles leased from LogistiCare.

of the preexisting carrier from the consequences of any unprofitable operations under the new one.⁵

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.⁶

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 810 shall be issued to Alterna-Trans Inc., 8210 Beechcraft Avenue, Gaithersburg, MD 20879.

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 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; (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, MILLER, AND MCDONALD:


William H. McGilvery
Executive Director

⁵ Id.

⁶ Id.