

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7914

IN THE MATTER OF:

Served April 6, 2004

Application of MARYLAND EXPRESS)	Case No. AP-2003-84
TRANSPORTATION INC. for a)	
Certificate of Authority --)	
Irregular Route Operations)	
MARYLAND EXPRESS TRANSPORTATION)	Case No. MP-2003-47
INC., Investigation of)	
Unauthorized Operations)	

This application was conditionally granted in Order No. 7418, served September 24, 2003, subject to the requirement that applicant pay a \$250 civil forfeiture and file certain documents within thirty days. The order provided that the application would stand denied upon applicant's failure to timely comply.

Applicant subsequently filed responsive documents on November 19, 2003, including a WMATC Insurance Endorsement, after requesting a thirty-day extension of time to comply with Order No. 7418. The insurance endorsement was acceptable, but the other documents were not, and staff wrote to applicant the next day explaining what needed to be done to cure the deficiencies and directing applicant to present its revenue vehicles for inspection.

By December 17, 2003, applicant had filed corrected documents and presented its vehicles for inspection, but on that day, in response to staff inquiries concerning allegations of unlawful operations, applicant admitted to transporting passengers from Washington Dulles International Airport to Bethesda, MD, on October 27, 2003 -- despite the clear proscription against such operations in Orders Nos. 7201 and 7418, issued in these proceedings on May 21, 2003, and September 24, 2003, respectively. Applicant's insurance endorsement then terminated on December 30, 2003, and has yet to be replaced.

On March 19, 2004, applicant filed a request to withdraw the application.

"The Commission cannot require one to apply for any specific operating authority, or to continue to pursue an application already filed, if he is under no legal compulsion to furnish the services."¹

¹ Montgomery Charter Serv. v. WMATC, 302 F.2d 906 (D.C. Cir. 1962).

Applicant is under no legal compulsion to furnish services requiring a certificate of authority. Therefore, the request shall be granted.

Applicant is admonished, however, that the \$250 civil forfeiture assessed in Order No. 7418 still stands. In addition, the Commission shall assess a forfeiture of \$250 against applicant for admittedly violating the Compact on October 27, 2003. We shall, however, approve applicant's request of November 18, 2003, to pay the first forfeiture in equal monthly installments of \$25 each.

THEREFORE, IT IS ORDERED:

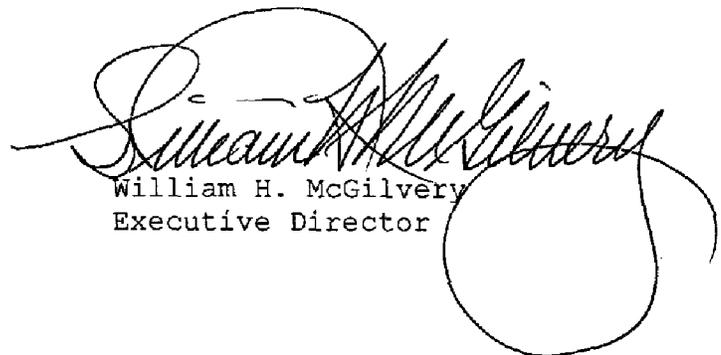
1. That by operation of Order No. 7418 and Commission Regulation No. 66, and in accordance with applicant's request, the application stands denied and withdrawn.

2. That the deadline for paying the \$250 civil forfeiture assessed in Order No. 7418 is hereby extended as follows: Maryland Express Transportation Inc. shall tender to the Commission, by money order, certified check, or cashier's check, ten consecutive monthly payments of twenty-five dollars (\$25), each, payable on the first of each month beginning May 1, 2004.

3. That the Commission hereby assesses an additional civil forfeiture against Maryland Express Transportation Inc. in the amount of \$250 for knowingly and willfully violating Article XI, Section 6(a), of the Compact on October 27, 2003.

4. That Maryland Express Transportation Inc. is hereby directed to pay the additional forfeiture to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, in the amount of two hundred fifty dollars (\$250).

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER, AND MCDONALD:



William H. McGilvery
Executive Director