

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8519

IN THE MATTER OF:

Served January 21, 2005

Application of CRAIG LEE WILKINS,)
Trading as LE'NA'S TRANSPORTATION,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2004-175

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.

The Compact, Title II, 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 one van and one sport utility vehicle (SUV). Applicant's proposed tariff contains individual, round-trip fares for daily and weekly service inside the Capital Beltway.

According to the application, the SUV only seats eight passengers. Given applicant's daily and weekly rate structure, this raises the issue of whether the service proposed in the SUV meets the definition of "bona fide taxicab service," which is exempt from certification under the Compact.¹ Bona fide taxicab service is defined in Regulation No. 51-09 as follows:

Other vehicles that perform a bona fide taxicab service means vehicles other than taxicabs used to perform a service that is:

(a) transportation intended in good faith to be provided only between points selected at will by the person or persons hiring the vehicle in which such transportation is provided;

(b) conducted in a vehicle subject to the exclusive use of the passenger or single party of passengers

¹ In re Ellerbe Group Corp., t/a Ellerbe Corp. Transp. Serv., No. AP-96-56, Order No. 4968 (Nov. 14, 1996).

hiring the vehicle for the entire time such vehicle is under hire;

(c) priced at rates based on the duration and/or distance of the transportation rendered;

(d) conducted in a vehicle engaged solely in rendering or performing transportation as described in subparagraphs (a), (b), and (c) above; and

(e) conducted in a vehicle having a seating capacity of eight passengers or less in addition to the driver.

"We strictly construe the meaning of ['bona fide taxicab service'] because such service is excluded from the Compact's certification requirements."² The issue here is whether daily and weekly rates are based on duration within the meaning of Regulation No. 51-09(c). To qualify as based on duration or distance, the charge must bear "some relation or proportion to the factors of time and/or distance so that the risks of unforeseen delays and/or deviations fall on those who hire the vehicle."³ Under applicant's rate structure, passengers are at risk only for those unforeseen delays and/or deviations necessitating an additional day's or week's hire. Bona fide taxicab service, on the other hand, excludes a service which only "occasionally exhibits the characteristics of taxicab service."⁴

We also note that taxicab service may be distinguished from charter service in that "taxicab service connotes . . . more immediate travel requirements."⁵ Although some sense of immediacy attaches to a daily rate, that sense of immediacy is lost when moving to a weekly rate. Indeed, when Regulation No. 51-09 was promulgated the Commission observed that rates for service in "small vehicles" appeared generally to be set "by the hour."⁶

Accordingly, we find that the SUV service proposed is not bona fide taxicab service within the meaning of Regulation No. 51-09.

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

² In re Seth, Inc., t/a Kids Kab, No. AP-93-40, Order No. 4243 at 3 (Feb. 9, 1994).

³ In re O. Oluokun, Inc., t/a Montgomery County Limo, No. MP-93-43, Order No. 4225 (Dec. 16, 1993) (emphasis in original) (quoting In re Title II, Art. XII, § 1(c) of the Compact, No. MP-83-01, Order No. 2559 at 9 (May 24, 1984)).

⁴ Order No. 2559 at 10 (emphasis added).

⁵ Id. at 9 n.10.

⁶ Id. at 13.

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.

THEREFORE, IT IS ORDERED:

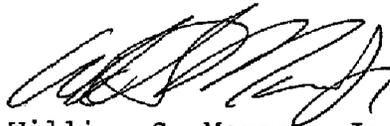
1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1033 shall be issued to Craig Lee Wilkins, trading as Le'Na's Transportation, 3607 Eastern Avenue, Mount Ranier, MD 20712.

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 the 180-day maximum permitted in Commission Regulation No. 66: (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 GUNS:



William S. Morrow, Jr.
Executive Director