

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 8623

IN THE MATTER OF:

Served April 4, 2005

Application of PEOPLE HELPING )  
OTHERS TRANSPORTATION, INC., for a ) Case No. AP-2005-17  
Certificate of Authority -- )  
Irregular Route Operations )

By application accepted for filing February 11, 2005, People Helping Others Transportation, Inc., a Maryland corporation, seeks a certificate of authority for irregular route operations in vehicles with a seating capacity of less than 16 persons only, including the driver.

Applicant proposes commencing operations with three vans. Applicant's proposed tariff contains rates for transportation under the DC Medicaid program and for similar non-Medicaid transportation.

Applicant's Exhibit A indicates that applicant possesses three vans, but the Exhibit does not include copies of the registrations for those vehicles as required. Applicant will be directed to file those registrations.

Applicant's president, Clarence F. Pollard III, is the husband of Justina L. Pollard, who held WMATC Certificate No. 616 under the trade name P.H.O. until February 16, 2005, when it was revoked in Order No. 8558 for P.H.O.'s willful failure to comply with the Commission's insurance regulation, Regulation No. 58.<sup>1</sup>

Order No. 8558 gave P.H.O. thirty days to remove P.H.O.'s WMATC number from its vehicle(s), file an affidavit with the Commission verifying removal, and surrender Certificate No. 616. P.H.O. has yet to comply. In addition P.H.O. neither paid the \$100 annual fee for 2005 nor filed its annual report for 2004, which were both due January 31 before Certificate No. 616 was revoked.<sup>2</sup>

The history of Certificate No. 616 has a bearing on this application because the past conduct of an applicant's owners and

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<sup>1</sup> In re Justina L. Pollard, t/a P.H.O., No. MP-04-216, Order No. 8558 (Feb. 16, 2005).

<sup>2</sup> See Compact, tit. I, art. IV, § 4(a); Regulation No. 67; Order No. 3601 (\$100 annual fee due on or before January 31); Compact, tit. II, art. XII, § 1(a); Regulation No. 60-01; Notice dated Jan. 7, 2005 (2004 annual report due Jan. 31, 2005).

officers is relevant to a determination of applicant's compliance fitness,<sup>3</sup> and Clarence Pollard's spousal relationship with Justina Pollard raises the presumption that he controlled P.H.O. at the time of P.H.O.'s violations.<sup>4</sup> That presumption is bolstered by Clarence Pollard having identified himself as "president" of P.H.O. in a tariff and annual report that he signed and filed on behalf of P.H.O. last year. Under the circumstances, applicant will be directed to explain why the Commission should not find applicant unfit given the failure of applicant's president to ensure P.H.O.'s compliance with Commission requirements at a time he apparently controlled P.H.O.

We also note that applicant paid the \$100 application filing fee with a check drawn on the account of P.H.O. Transportation LLC, a Maryland Limited Liability Company, which according to its articles of organization was formed by Clarence and Justina Pollard on April 17, 2002, "to provide transportation". Applicant will be directed to produce any and all records relating to the LLC's operations in the Metropolitan District, if any.

Finally, the street address listed in the application is not recognized as a valid address by the United States Postal Service, although it does appear to be in the same block as the address listed for Carrier No. 616 in its 2003 annual report, which is recognized as a valid address by the United States Postal Service. Applicant will be directed to file a statement clarifying the street address of its principal place of business. In the meantime, we will use the address of applicant's resident agent, Clarence Pollard, for public notice purposes.

This proceeding is hereby initiated to determine whether applicant is fit and whether the proposed transportation is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That applicant shall publish once in a newspaper of general circulation in the Metropolitan District, no later than April 18, 2005, notice in the form prescribed by the staff of the Commission.

2. That applicant shall file with the Commission, no later than May 2, 2005:

a. An affidavit that notice has been published as required in the preceding paragraph.

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<sup>3</sup> In re Nevah Transports, LLC, No. AP-02-121, Order No. 7001 (Jan. 21, 2003).

<sup>4</sup> "A presumption of common control arises where an officer of one carrier is closely related to an officer of another carrier." In re Ontime Transp. Inc., No. AP-00-18, Order No. 5866 (Apr. 21, 2000).

- b. Copies of the registration cards for the three vans listed in Exhibit A.
- c. A statement explaining why the Commission should not find applicant unfit given the failure of applicant's president to ensure WMATC Carrier No. 616's compliance with Commission Order No. 8558 and WMATC Carrier No. 616's fulfillment of its obligation to file an annual report for 2004 and pay the \$100 annual fee for 2005.
- d. Any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within applicant's or its president's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District by P.H.O. Transportation LLC.
- e. A statement clarifying the street address of applicant's principal place of business.

4. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing, is May 2, 2005, and that copies must be served on applicant's president, Clarence F. Pollard III, P.O. Box 1401, Suitland, MD 20752.

FOR THE COMMISSION:



William S. Morrow, Jr.  
Executive Director