

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

GENERAL ORDER NO. 24

IN THE MATTER OF:

Served April 27, 2020

Partial Waiver of Rules of Practice)
and Procedure and Regulations,)
Regulation Nos. 60-03, 67-01, and)
67-04)

Pursuant to Title II of the Compact, Article XIII, Section 3, and Commission Rule No. 30, the Commission hereby waives, in part, certain provisions of Commission Regulation Nos. 60-03, 67-01, and 67-04.

This order postpones the date when a carrier's operating authority will be suspended for failure to file a 2020 annual report, failure to pay a 2020 annual fee, or pay associated late fees, from May 1, 2020, to August 1, 2020. This order also waives up to one application filing fee of carriers whose request to voluntarily terminate a WMATC certificate of authority was granted by the Commission in 2020 and which subsequently reapply to obtain a certificate of authority on or before February 28, 2021.

This waiver shall take effect immediately. Notice and a public comment period are impracticable while the Commission office is closed to public visitors due to the coronavirus (COVID-19) pandemic, contrary to the public interest because swift action is required due to an approaching April 30 deadline, and unnecessary because members of the public will not be adversely affected by these procedural changes.

I. POSTPONEMENT OF OPERATING AUTHORITY SUSPENSION DATE

Pursuant to Regulation No. 60-03, a carrier's operating authority shall stand suspended upon the carrier's failure to file an annual report on or before April 30 of the year the report is due. Similarly, pursuant to Regulation No. 67-04, a carrier's operating authority shall stand suspended upon the carrier's failure to pay an annual fee, or late fee under Regulation No. 67-03(a) or (b), on or before April 30 of the year the fee is due.

In response to the COVID-19 pandemic, General Order No. 23, served March 30, 2020, provides that in computing any period of time prescribed or allowed by any rule, regulation, correspondence, or order of the Commission or by the Compact pursuant to Commission Rule No. 7-01, the time period from March 31, 2020, until the last day before the Commission's physical office reopens to the public, shall not be included.

However, General Order No. 23 does not toll the April 30 deadlines specified in Regulation Nos. 60-03 and 67-04 because these two regulations do not involve computations of time subject to Rule No. 7-01.¹ Notably, Regulation Nos. 60-03 and 67-04 previously specified a suspension of operating authority upon the failure of a carrier to file an annual report or pay an annual fee or associated late fee within 90 days of the due date. The regulations were amended in 2014 to replace a 90-day period with the fixed date of April 30.²

Because the April 30 deadline is not tolled by General Order No. 23 for purely technical reasons, and given that the Commission's physical office remains closed to the public, the Commission shall hereby postpone the deadline until July 31, 2020. Suspensions of operating authority of non-compliant carriers will take effect on August 1, 2020.

II. WAIVER OF REGULATION NO. 67-01 APPLICATION FILING FEE

The unprecedented COVID-19 pandemic and resulting economic distress have caused a sharp increase in the number of WMATC licensed carriers ceasing operations. Many of those companies have chosen to seek voluntary termination of their certificates of authority, pursuant to Title II of the Compact, Article XI, Section 10(b), in part to avoid the burden of complying with the Commission's minimum insurance requirements at a time when the companies are not operating. Some of these carriers may wish to recommence operations in the future, but before they may do so, they must apply again for operating authority, and pay the application filing fee set forth in Regulation No. 67-01.

We see no public policy benefit in requiring companies to maintain minimum levels of insurance while dormant. Further, we do not wish for companies that have temporarily ceased operations in this current environment to be dissuaded from terminating their operating authority by the anticipated future cost of an application filing fee.

Accordingly, the Commission shall waive the application filing fee prescribed in Regulation No. 67-01 through February 28, 2021, for any applicant who previously held operating authority from this Commission and filed an application for voluntary termination which was granted in 2020. For purposes of clarity, this fee waiver shall only apply to applications filed by the exact same legal entity as previously held a certificate of authority. This waiver will not apply to applications filed by affiliates. Furthermore, this fee waiver shall

¹ *But cf. In re Investigation of Failure to Comply with Reg. Nos. 60 and/or 67, Governing Annual Reports, Annual Fees and Late Fees*, No. MP-15-072, Order No. 15,565 (May 5, 2015) (holding fixed January 31 deadline extended to next business day by Rule 7-01); *In re Investigation of Failure to Comply with Reg. Nos. 60 and/or 67, Governing Annual Reports, Annual Fees and Late Fees*, No. MP-10-036, Order No. 12,393 (May 5, 2010) (same); *In re Investigation of Failure to Comply with Reg. Nos. 60 and/or 67, Governing Annual Reports, Annual Fees and Late Fees*, No. MP-09-063, Order No. 11,970 (May 8, 2009) (same).

² *In re Rulemaking to Amend Rules of Prac. & Proc. & Regs.: Reg. Nos. 54, 58, 60, and 67*, No. MP-14-115, Order No. 15,198 (Nov. 14, 2014).

not apply to applications by carriers whose authority was revoked for failure to comply with Commission requirements. Finally, each qualifying applicant shall only benefit from one waiver of a filing fee. After an initial application, any subsequent applications shall be accompanied by the filing fee prescribed in Regulation No. 67-01.

THEREFORE, IT IS ORDERED:

1. That solely in calendar year 2020, Commission Regulation No. 60-03 is partially waived such that a carrier's operating authority shall stand suspended upon the carrier's failure to file an annual report under Regulation No. 60-01 on or before July 31, 2020.

2. That, solely in calendar year 2020, Commission Regulation No. 67-04 is partially waived such that a carrier's operating authority shall stand suspended upon the carrier's failure to pay an annual fee under Regulation No. 67-02 or late fee under Regulation No. 67-03(a) or (b) on or before July 31, 2020.

3. That the application filing fee prescribed by Commission Regulation No. 67-01 is waived for good cause for applicants meeting the following criteria:

- a. the applicant previously held a WMATC certificate of authority;
- b. the applicant's certificate of authority was voluntarily terminated during 2020 at applicant's request; and
- c. applicant reapplies for a certificate of authority on or before February 28, 2021; and
- d. applicant has not previously received a waiver of an application filing fee pursuant to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS MAROOTIAN, HOLCOMB, AND RICHARD:



Jeffrey M. Lehmann
Executive Director