

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,744

IN THE MATTER OF:

Served December 11, 2008

Application of CHARLES BURNEY) Case No. AP-2008-105
MAINOR, Trading as MAINOR'S BUS)
SERVICE, for a Certificate of)
Authority -- Irregular Route)
Operations)

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. 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. If an applicant does not make the required showing, the application must be denied under Section 7(b).

An applicant for a certificate of authority bears the burden of establishing financial fitness, operational fitness, and regulatory compliance fitness.¹ A determination of compliance fitness is prospective in nature.² The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.³ Past violations do not necessarily preclude a grant of authority but permit the inference that violations will continue.⁴

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁵

¹ *In re BLS Limo Group, Inc.*, No. AP 05-195, Order No. 9569 (May 18, 2006).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Applicant held WMATC Certificate No. 463 from June 14, 1999, until March 9, 2007, when it was revoked in Order No. 10,313 for willful failure to comply with the Commission's insurance requirements.⁶ Applicant reapplied for a certificate of authority last year, but the application was denied without prejudice for failure to establish regulatory compliance fitness.⁷

Under Commission Rule No. 28, respondent is required to verify that he ceased transporting passengers for hire under Certificate No. 463 as of November 18, 2006, pursuant to Order No. 10,087.⁸ A statement filed by applicant states that applicant's operations "after 2006 in the Metropolitan District were Chartered Trips ONLY!" The statement fails to address applicant's operations or lack of operations in November and December, 2006. In any event, chartered trips between points in the Metropolitan District require a WMATC Certificate of Authority.

Under the circumstances, we are unable to say that applicant has sustained his burden of demonstrating regulatory compliance fitness.

THEREFORE, IT IS ORDERED that the application of Charles Burney Mainor, t/a Mainor's Bus Service, for a certificate of authority is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:

FOR THE COMMISSION



William S. Morrow, Jr.
Executive Director

⁶ *In re Charles Burney Mainor, t/a Mainor's Bus Service*, No. MP-06-186, Order No. 10,313 (Mar. 9, 2007).

⁷ *In re Charles Burney Mainor, t/a Mainor's Bus Service*, No. AP-07-127, Order No. 10,933 (Nov. 27, 2007).

⁸ See *In re Royal Airport Shuttle, Inc.*, No. MP-07-009, Order No. 10,374 (Apr. 3, 2007) (directing suspended carrier to file verification under Rule No. 28).