

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,815

IN THE MATTER OF:

Served January 26, 2009

Application of RICARDO S. SANTIAGO,)
Trading as CALESA TRANSPORTATION)
SERVICE, for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-2008-117

This matter is before the Commission on applicant's request for waiver of Commission Regulation No. 61.

Commission Regulation No. 61 requires each WMATC carrier to display its name and WMATC number on both sides of each vehicle used in WMATC operations. Applicant has requested that the Commission waive the application of Regulation No. 61 with respect to applicant's 2007 Honda Odyssey minivan on the ground that the vehicle in question will be used as a "luxury sedan".

"The markings required by Regulation No. 61 help assign responsibility, and facilitate recovery of compensation, for damage and injuries caused by carriers operating under WMATC authority. Such markings facilitate the processing of customer complaints, as well."¹ They also "assist State officials conducting roadside inspections and accident investigations in attributing important safety data to the correct motor carrier."² "These purposes must be balanced against other considerations, such as competitive harm."³

WMATC carriers operating limousines and luxury sedans seating nine persons or less, including the driver, must compete against non-WMATC carriers operating such vehicles. Non-WMATC carriers may legally operate such vehicles in the Metropolitan District pursuant to the "bona fide taxicab service" exclusion in Article XI, Section 3(f), of the Compact, as defined in Regulation No. 51-09. Non-WMATC carriers typically are not required to mark such vehicles. Requiring WMATC carriers to mark such vehicles thus would put them at a competitive disadvantage relative to non-WMATC carriers.⁴ Applicant

¹ *In re Escort Limo. Serv., Inc.*, No. AP-03-48, Order No. 7512 (Nov. 5, 2003); *In re Prime Transp. Servs., Inc.*, No. AP-02-92, Order No. 7511 (Nov. 5, 2003).

² Order No. 7512 (citing 65 Fed. Reg. 35287, 35288 (June 2, 2000)); Order No. 7511 (same).

³ Order No. 7512; Order No. 7511.

⁴ Order No. 7512; Order No. 7511.

has produced no evidence that he would suffer competitive harm of this nature absent a waiver of Regulation No. 61.

Applicant has produced no evidence that the industry or riding public considers this type of vehicle to be a luxury vehicle. On the contrary, Edmonds.com describes it as a type of "family" transportation.⁵ Therefore, we cannot say on this record that applicant has demonstrated sufficient grounds for the Commission to negate the safety function of Regulation No. 61 by granting applicant a vehicle marking waiver.

THEREFORE, IT IS ORDERED, that the request for waiver of Regulation No. 61 is denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS CHRISTIE AND BRENNER:



William S. Morrow, Jr.
Executive Director

⁵ See <http://www.edmunds.com/honda/odyssey/2007/review.html>.