

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,340

IN THE MATTER OF:

Served March 24, 2010

Application of FIRST CHOICE HEALTH)
SERVICES LLC to Acquire Certificate)
No. 1210 from JOSEPH K. NGWAFWA,)
TRADING AS FIRST CHOICE HEALTH)
SERVICES)

Case No. AP-2010-015

Case No. AP-2010-016

Application of FIRST CHOICE HEALTH)
SERVICES LLC for Temporary)
Authority -- Irregular Route)
Operations)

By application accepted for filing February 5, 2010, applicant, First Choice Health Services LLC, a Maryland entity, seeks Commission approval to acquire Certificate No. 1210 from Joseph K. Ngwafa, trading as First Choice Health Services. Ngwafa has agreed to transfer Certificate No. 1210 and other assets in exchange for a controlling interest in First Choice Health Services LLC, a new carrier.

Applicant also filed an application for temporary authority to transport passengers in irregular operations between points within the Metropolitan District.

The applications are unopposed.

I. TRANSFER OF CERTIFICATE

Under Article XI, Section 11(a), of the Compact, a person may not transfer a certificate of authority unless the Commission approves the transfer as consistent with the public interest. The public interest analysis focuses on the acquiring party's fitness.¹

Applicant proposes commencing operations with two sedans and one van. Applicant proposes operating under a tariff containing rates for Medicaid transportation.

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

¹ *In re Quality Med. Supplies LLC, t/a F & J Healthcare Servs., & Tingem Health Care Servs. Inc.*, No. AP-04-25, Order No. 8033 (May 27, 2004).

policy that provides the minimum amount of coverage required by 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 applicant to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements and, therefore, that the transfer of Certificate No. 1210 to applicant is consistent with the public interest.

II. TEMPORARY AUTHORITY

Applicant filed a request on March 3 to withdraw the application for temporary authority. The request shall be granted. "The Commission cannot require one to apply for any specific operating authority, or to continue to pursue an application already filed, if he is under no legal compulsion to furnish the services."²

THEREFORE, IT IS ORDERED:

1. That Case Nos. AP-10-015 and AP-10-016 are hereby consolidated pursuant to Commission Rule No. 20-02.

2. That the request to withdraw the application for temporary authority is granted.

3. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1210 shall be reissued to First Choice Health Services LLC, 9207 Chestnut Avenue, Bowie, MD 20720-3222.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate of Authority No. 1210 has been reissued in accordance with the preceding paragraph.

5. That applicant is hereby directed to present its revenue vehicle(s) for inspection and 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; (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

² *In re Careco Home Health Care Services*, No. AP-08-119, Order No. 11,590 (Sept. 26, 2008); *In re Malek Inv. of Va., Inc., t/a Montgomery Airport Shuttle*, No. AP-99-11, Order No. 5706 (Sept. 22, 1999) (quoting *Montgomery Charter Serv. v. WMATC*, 302 F.2d 906 (D.C. Cir. 1962)).

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) the original Certificate No. 1210 issued June 23, 2006.

6. That the transfer 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.

FOR THE COMMISSION

A handwritten signature in black ink, appearing to read 'W. S. Morrow, Jr.', written in a cursive style.

William S. Morrow, Jr.
Executive Director