

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 12,601

IN THE MATTER OF:

Served October 26, 2010

EXECUTIVE TECHNOLOGY SOLUTIONS,)
LLC, WMATC No. 985, Investigation)
of Violation of Regulation No. 61)
and Operation of Unsafe Vehicles)

Case No. MP-2010-090

This matter is before the Commission on the failure of respondent, Executive Technology Solutions, LLC, to comply with the Commission's vehicle marking requirements in Regulation No. 61 and to provide proof of current safety inspection.

I. BACKGROUND

Respondent holds WMATC Certificate of Authority No. 985. Respondent's 2010 annual report, signed February 1, 2010, lists seven vehicles used in WMATC operations. The vehicle identification number (VIN) reported for one of the vehicles on that list is invalid. While attempting to ascertain the correct VIN number of the vehicle in question, Commission staff discovered several discrepancies between the vehicle information in respondent's 2010 annual report and vehicle information on file with the Maryland Motor Vehicle Administration (MVA), the Maryland Public Service Commission (PSC), and respondent's insurance company.

Records from the Maryland MVA reveal that respondent has registered a vehicle not reported to this Commission. Also, two vehicles reported on respondent's 2010 annual report are not listed in a schedule of vehicles obtained from respondent's insurance company. Finally, respondent holds operating authority from the Maryland PSC and has reported a vehicle to the PSC not listed in respondent's 2010 annual report and not listed in the vehicle schedule from the insurance company.

On April 7, 2010, staff wrote to respondent requesting that respondent submit a list of its current vehicles, copies of registration cards for those vehicles, and safety inspection certificates on or before April 21, 2010. Respondent was also directed to present its vehicles for inspection on or before May 5, 2010.

On April 23, respondent filed a vehicle list containing 12 vehicles. Respondent subsequently filed copies of current registration cards for 10 of those vehicles and filed a statement asserting the other 2 vehicles provide intrastate service within the Commonwealth of Virginia and are exempt from this Commission's jurisdiction under Article XI, Section (3)(g), of the Compact. On May 3, respondent filed

a vehicle lease covering a vehicle that is not registered to respondent, in compliance with Regulation No. 62-02.

Respondent also filed six safety inspection certificates covering 5 of the 12 vehicles on its April 23 vehicle list and one vehicle not included on that list.

On May 5, 2010, respondent presented four vehicles for inspection by Commission staff. Respondent has yet to present its other vehicles for inspection.

II. SAFETY REQUIREMENTS

Title II of the Washington Metropolitan Area Transit Regulation Compact, Article XI, Section 5(a),¹ states that "Each authorized carrier shall provide safe and adequate transportation service, equipment, and facilities." Local motor vehicle laws require a safety inspection as part of the for-hire vehicle registration and registration renewal process.² Operation of a vehicle with an expired, invalid or missing safety inspection sticker violates Article XI, Section 5(a).³ Such a vehicle is presumptively unsafe.⁴

As the record stands now, respondent has furnished proof of current safety inspection for only 6 of 13 vehicles.

III. VEHICLE MARKING REQUIREMENTS

Under Regulation No. 61, each vehicle operated under a WMATC certificate of authority must display carrier identification markings. 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.⁵

Regulation No. 61-01 states that the following information must appear on both sides of each vehicle used to transport passengers under WMATC authority:

¹ Washington Metropolitan Area Transit Regulation Compact, Pub. L. No. 101-505, § 1, 104 Stat. 1300, 1305 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010).

² See e.g., www.marylandmva.com/AboutMVA/INFO/27300/27300-26T.htm; 18 DCMR 413.10, 421.2.

³ *In re Paramed Med. Transp., Inc., t/a Para-Med*, No. MP-10-015 Order No. 12,326 (Mar. 5, 2010) (ordering vehicles that failed safety inspection out of service); *In re Cmty. Multi-Servs., Inc.*, No. MP-10-008 Order No. 12,301 (Feb. 2, 2010); *In re VOCA Corp. of Wash., D.C.*, No. MP-02-30, Order No. 7258 (June 20, 2003); *In re Junior's Enters., Inc.*, No. MP-01-103, Order No. 6549 (Feb. 21, 2002); *In re Safe Transp., Inc.*, No. MP-96-15, Order No. 4849 (May 17, 1996).

⁴ Order No. 12,326, Order No. 12,301; Order No. 7258; Order No. 6549; Order No. 4849.

⁵ Order No. 12,326; Order No. 12,301.

(a) the carrier's legal name or trade name appearing on the carrier's certificate of authority, or otherwise approved by the Commission for use in the Metropolitan District, preceded by the phrase "Operated By" if some other name also appears on the vehicle; and

(b) "WMATC" followed by either the carrier's certificate of authority number or, if applicable, the carrier's temporary authority or approval number.

Regulation No. 61-02 dictates the markings must be large enough to be legible:

The markings required by this regulation must contrast sharply in color with the background and be legible during daylight hours from a distance of fifty feet. Markings less than two and one-half inches in height are presumed not to be legible from fifty feet. The markings must be kept and maintained in a manner preserving the required legibility.

Staff's inspection of the four vehicles presented by respondent on April 23 reveals that all four display markings of less than two and one-half inches in height. These vehicles thus are presumed not to be in compliance with Regulation No. 61.

IV. INITIATION OF INVESTIGATION

The Commission may investigate a carrier to determine whether that carrier has violated the Compact.⁶ The Commission may require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry.⁷ The Commission shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes.⁸

The Commission will initiate an investigation to determine whether respondent's vehicles are in violation of Regulation No. 61 and Article XI, Section 5(a), of the Compact.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondent's operations in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That respondent is hereby directed to submit within 15 days a current list of all vehicles, copies of the corresponding

⁶ Compact, tit. II, art. XIII, § 1(c).

⁷ Compact, tit. II, art. XIII, § 1(e).

⁸ Compact, tit. II, art. XII, § 1(b).

registration cards, and copies of all current safety inspection certificates.

3. That respondent is hereby directed to present all of its vehicles for inspection by Commission staff within 30 days.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS BRENNER, HOLCOMB, AND KUBLY:

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

William S. Morrow, Jr.
Executive Director