

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,620

IN THE MATTER OF:

Served October 17, 2016

VUGRAY ENTERPRISES L.L.C., WMATC)
No. 2846, Investigation of)
Violation of Order No. 16,057 and)
Regulation No. 64-04)

Case No. MP-2016-119

This matter is before the Commission on the response of respondent to Order No. 16,474, served July 15, 2016.

I. BACKGROUND

The Washington Metropolitan Area Transit Regulation Compact¹ authorizes the Washington Metropolitan Area Transit Commission (WMATC) to issue a certificate of passenger carrier 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.²

The Commission may attach to the issuance of a certificate and to the exercise of the rights granted under it any term, condition, or limitation that is consistent with the public interest.³

The Commission approved the application of VuGray Enterprises L.L.C., (respondent), for a certificate of authority on December 17, 2015, in Order No. 16,057, subject to several conditions, including the condition that respondent produce a copy of the for-hire vehicle registration card for each vehicle to be operated under WMATC authority, as required by WMATC Regulation No. 64-04.⁴

As of March 11, 2016, respondent had satisfied all conditions except the for-hire plate condition. In the absence of any passenger carrier authority, respondent was unable to obtain for-hire plates for its initial WMATC vehicles, a 2016 Nissan and a 2016 BMW.

¹ Pub. L. No. 101-505, § 1, 104 Stat. 1300 (1990), amended by Pub. L. No. 111-160, 124 Stat. 1124 (2010) (amending tit. I, art. III).

² Compact, tit. II, art. XI, § 7(a).

³ Compact, tit. II, art. XI, § 7(d).

⁴ *In re VuGray Enters. L.L.C.*, No. AP-15-267, Order No. 16,057 (Dec. 17, 2015).

To resolve the impasse, the Commission issued WMATC Certificate No. 2846 to respondent on March 11, 2016, subject to a vehicle-out-of-service notice and subject to the proviso that respondent obtain for-hire plates for the Nissan and BMW and submit copies of the new registrations to the Commission within 30 days or face revocation of Certificate No. 2846. Respondent did not comply. Order No. 16,474 accordingly gave respondent until August 14, 2016, to show cause why the Commission should not revoke Certificate No. 2846.

II. RESPONSE

On July 25, 2016, respondent filed a new vehicle lease for the Nissan and BMW. A 2016 Mercedes is listed as well. Attached to the lease are the current registrations for said vehicles, all three of which authorize private use only. The Commission has no record of respondent operating any other vehicles under its WMATC authority.

III. FINDINGS AND ORDER TO REVOKE

Under the Compact, the Commission may suspend or revoke all or part of any certificate of authority for willful failure to comply with a provision of the Compact, an order, rule, or regulation of the Commission, or a term, condition, or limitation of the certificate.⁵

The terms "willful" and "willfully" do not mean with evil purpose or criminal intent; rather, they describe conduct marked by intentional or careless disregard or plain indifference.⁶

Inasmuch as respondent has failed to produce evidence that for-hire plates have been acquired for its WMATC vehicles, we find that respondent has failed to show cause why the Commission should not revoke Certificate No. 2846 for failure to satisfy all conditions of issuance stipulated in Order No. 16,057.⁷

Certificate No. 2846 shall be revoked pursuant to Article XI, Section 10(c), of the Compact.

THEREFORE, IT IS ORDERED:

1. That Certificate of Authority No. 2846 is hereby revoked.
2. That within 30 days from the date of this order respondent shall:
 - a. remove from respondent's vehicle(s) the identification placed thereon pursuant to Commission Regulation No. 61;

⁵ Compact, tit. II, art. XI, § 10(c).

⁶ *In re Party's in Motion, LLC*, No. MP-14-141, Order No. 15,426 (Mar. 3, 2015).

⁷ See *id.* (revoking authority for failing to produce for-hire registration).

- b. file a notarized affidavit and supporting photograph(s) with the Commission verifying compliance with the preceding requirement; and
- c. surrender Certificate No. 2846 to the Commission.

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



William S. Morrow, Jr.
Executive Director