

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 16,747

IN THE MATTER OF:

Served December 15, 2016

Application of MILES AWAY CHARTER, )  
LLC, to Acquire Certificate ) Case No. AP-2016-156  
No. 1299 from MILES AWAY )  
CHARTER, LLC )

By application accepted for filing September 19, 2016, applicant, Miles Away Charter, LLC, a District of Columbia entity, (Miles Away DC), seeks Commission approval to acquire Certificate No. 1299 from Miles Away Charter, LLC, a Maryland entity, (Miles Away MD). Both entities are controlled by a common owner, Ms. Vanessa M. Fulcher. The application is unopposed.

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.<sup>1</sup>

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 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.

Normally, such evidence would establish an applicant's fitness,<sup>2</sup> but applicant's owner, Vanessa Fulcher, has a history of controlling a carrier, Miles Away MD, with regulatory violations.

Earlier this year, the Commission discovered that Miles Away MD stood dissolved and that its intrinsic right to conduct business had all but terminated under Maryland law and, by extension, under the Compact.<sup>3</sup> On August 29, 2016, in Case No. MP-2016-146, the Commission

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<sup>1</sup> *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).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> *In re Miles Away Charter, LLC*, No. MP-16-146, Order No. 16,697 at 1-3 (Nov. 22, 2016).

gave Miles Away MD 30 days to file a certificate of good standing from Maryland or show cause why the Commission should not: (a) assess a civil forfeiture against it, (b) suspend or revoke its WMATC authority, and/or (c) otherwise direct that it cease operations under its WMATC authority.<sup>4</sup>

Instead of causing Miles Away MD to file a certificate of good standing from Maryland, Ms. Fulcher caused Miles Away DC to file the instant application for transfer of Certificate No. 1299. On the strength of said application, we found that Miles Away MD had shown good cause for not revoking Certificate No. 1299 and declined to assess a forfeiture. However, we suspended Certificate No. 1299 for Miles Away MD's failure to comply with Article XI, Section 5, of the Compact and Order No. 16,538.<sup>5</sup> As we explained, "permitting corporations and LLCs that no longer exist, or that have lost the intrinsic legal capacity to transact business beyond the minimum acts necessary for liquidating assets and winding up one's affairs to continue conducting WMATC operations is not consistent with the public interest."<sup>6</sup> We determined that the suspension would remain in effect until Certificate No. 1299 is reissued to Miles Away DC, is revoked pursuant to Regulation No. 65, or is otherwise terminated, whichever occurs first.<sup>7</sup>

Inasmuch as we have already decided, based on the combined records in this proceeding and Case No. MP-2016-146, not to revoke Certificate No. 1299 but only to suspend it until such time as it is reissued in the name of Miles Away DC, and considering the terms of probation<sup>8</sup> and other conditions prescribed herein, 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. 1299 to applicant is consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1299 shall be reissued to Miles Away Charter, LLC, 316 F Street N.E., #122, Washington, DC 20002-4934.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order

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<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> *Id.* at 4.

<sup>7</sup> *Id.* at 4-5.

<sup>8</sup> See *In re Quiana Tours, Inc.*, No. AP-02-140, Order No. 7316 (July 17, 2003) (placing transferee on probation in light of WMATC violations committed by transferee's owner).

unless and until Certificate of Authority No. 1299 has been reissued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents and present its revenue vehicle(s) for inspection 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 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) original Certificate No. 1299.

4. That applicant shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 1299 in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

5. 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 reissuance prescribed herein.

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



William S. Morrow, Jr.  
Executive Director