

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,193

IN THE MATTER OF:

Served September 8, 2017

Application of METRO TRANSCARE LLC) Case No. AP-2017-047
for a Certificate of Authority --)
Irregular Route Operations)

This matter is before the Commission on applicant's response to Order No. 16,954, served April 19, 2017, which dismissed this proceeding for applicant's failure to comply with the Commission's application requirements. Applicant has filed a request to reopen this proceeding.

I. CAUSE FOR DISMISSAL AND GROUNDS FOR REOPENING

Under the Compact, an application to obtain a certificate of authority shall be made in writing and verified, and it shall contain the information required by the application form and accompanying instructions.¹ An applicant may be required to furnish any supplemental information necessary for a full and fair examination of the application.² Failure to comply with the Commission's application requirements warrants dismissal.³

By email sent March 16, 2017, applicant was required to furnish supplemental information on or before March 30, 2017, pursuant to Commission Regulation No. 54-04(b). Applicant timely submitted some but not all of the required information. Accordingly, the application was dismissed April 19, 2017.

On May 11, 2017, applicant filed a request to reopen this proceeding. The request is accompanied by the remaining required information. For good cause shown, this proceeding shall be reopened under Commission Rule No 26.⁴

II. APPLICATION

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a

¹ Compact, tit. II, art. XI, § 8; Regulation No. 54-02.

² Regulation No. 54-04(b).

³ *In re One, LLC, t/a Bon Voyage*, No. AP-04-103, Order No. 8212 (Aug. 5, 2004).

⁴ *See In re Abdelrazig Hassan Shawkat*, No. AP-13-076, Order No. 13,865 (Apr. 12, 2013) (same).

seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of 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.

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,⁵ but this applicant has a history of regulatory violations.

A. History of Violations

According to Commission records, applicant held WMATC Certificate No. 1922 from October 2, 2012, to June 19, 2014, when it was revoked in Case No. MP-14-042 after having been suspended on March 21, 2014, for applicant's willful failure to maintain compliance with the Commission's insurance requirements in Regulation No. 58.⁶

Certificate No. 1922 was reinstated on September 12, 2014, in Order No. 15,050, subject to the requirement that applicant verify cessation of WMATC operations from the first day of suspension on March 21, 2014, to reinstatement on September 12, 2014, and further subject to the requirement that applicant produce copies of its business records from January 1, 2014, to September 12, 2014.⁷ Of particular interest was the three-month period from March 21, 2014, to July 18, 2014, when applicant was uninsured. Applicant produced the requisite verification, but its document production was found to be incomplete, and a \$250 civil forfeiture was assessed.⁸

⁵ *In re Metro Transcare LLC*, No. AP-15-268, Order No. 16,243 at 2 (Mar. 9, 2016).

⁶ *In re Metro Transcare LLC*, No. MP-14-042, Order No. 14,848 (June 19, 2014).

⁷ *In re Metro Transcare LLC*, No. MP-14-042, Order No. 15,050 (Sept. 12, 2014).

⁸ *In re Metro Transcare LLC*, No. MP-14-042, Order No. 15,916 (Oct. 20, 2015).

In the meantime, Certificate No. 1922 was suspended three more times for various violations and ultimately revoked on August 20, 2015, for yet another violation of Regulation No. 58.⁹

Applicant reapplied for WMATC operating authority three months later on November 23, 2015, and belatedly surrendered Certificate No. 1922, paid the \$250 civil forfeiture, and paid a \$150 outstanding late fee. Applicant also produced additional business records, but because none were from 2014, the application was denied.¹⁰

B. Likelihood of Future Compliance

When an applicant or a person controlling an applicant has a record of violations, or a history of controlling companies with such a record, the Commission considers the following factors in assessing the likelihood of applicant's future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether the controlling party has made sincere efforts to correct past mistakes, and (5) whether the controlling party has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.¹¹

Applicant's failure to maintain compliance with Regulation No. 58 warranted revocation of Certificate No. 1922 twice, and applicant's failure to produce records as directed persisted until this year. In support of the instant application, however, applicant has produced the records that the Commission initially sought in 2014. The records are consistent with applicant having properly ceased WMATC operations in 2014. Additional records from 2015, 2016, and 2017 are consistent with applicant having remained inactive during those years. In addition, applicant has confirmed removal of vehicle markings in accordance with Regulation No. 61-04. The Commission has found other applicants fit under similar circumstances.¹² Applicant shall serve a

⁹ *In re Metro Transcare LLC*, No. MP-15-135, Order No. 15,808 (Aug. 20, 2015).

¹⁰ Order No. 16,243 at 3.

¹¹ *Id.* at 2-3.

¹² See *In re Zion Found. for Citizens, Inc., t/a Zion Transp. Servs.*, No. AP-13-422, Order No. 14,606 (Feb. 26, 2014) (timely cessation of operations and removal of vehicle markings); *In re Reliable Med. Transp., LLC.*, No. AP-08-180, Order No. 11,820 (Jan. 26, 2009) (no evidence of post-suspension operations and no other outstanding issues); *In re Business Logistics Group, L.L.C., t/a ATS, L.L.C.*, No. AP-06-002, Order No. 9652 (June 15, 2006) (verification of no post-suspension operations and payment of outstanding fees and forfeitures); *In re Henka Int'l, Inc., t/a Worldwide Tours & Travel*, No. AP-03-184, Order No. 8035 (May 27, 2004) (no evidence of post-suspension operations and satisfactory accounting for vehicles and vehicle markings).

one year period of probation as a means of ensuring prospective compliance.¹³

C. Conclusion

Based on the evidence in this record, and considering the terms of probation and other conditions prescribed herein, the Commission finds that the proposed transportation is consistent with the public interest and that 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.

THEREFORE, IT IS ORDERED:

1. That this proceeding is hereby reopened under Commission Rule No 26.

2. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 1922 shall be reissued to Metro Transcare LLC, 13501 Ale House Circle, #430, Germantown, MD 20874-5435.

3. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 1922 has been reissued in accordance with the preceding paragraph.

4. 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; and (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.

5. That applicant shall be placed on probation for a period of one year commencing with the reissuance of Certificate No. 1922 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

¹³ See Order No. 14,606 (same) Order No. 11,820 (same); Order No. 9652 (same); Order No. 8035 (same).

applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

6. That the grant 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.

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

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

William S. Morrow, Jr.
Executive Director