

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,460

IN THE MATTER OF:

Served February 14, 2018

Petition of DC NY TOURS LLC for )  
Refund of Application Filing Fee )

Case No. MP-2018-016

This matter is before the Commission on applicant's request for refund of an application filing fee.

**I. BACKGROUND**

Petitioner DC NY Tours LLC seeks a refund of the \$300 filing fee paid in support of an application for WMATC operating authority submitted on September 7, 2017, one of six applications for WMATC operating authority filed by petitioner's managing member, Michael S. Rodriguez, over a 12-month period beginning in November 2016.

Mr. Rodriguez filed the first two applications as a sole proprietor trading as Amadeus Limo. He filed the third on behalf of Amadeus Group LLC. He filed the fourth, fifth, and sixth on behalf of petitioner, DC NY Tours LLC.

The first five applications were dismissed for failure to produce information pursuant to Regulation No. 54-04(b),<sup>1</sup> which states that an applicant may be required to "furnish additional information necessary to a full and fair determination of the application."

The sixth application was conditionally approved on December 19, 2017.<sup>2</sup> A certificate of authority has not issued yet in the sixth proceeding inasmuch as DC NY Tours has yet to satisfy the conditions of approval.

The instant petition relates indirectly to the fourth application and directly to the fifth. The fourth application was filed on July 18, 2017, and dismissed on August 22, 2017.<sup>3</sup> The fifth application was filed on September 7, 2017. The request for refund of the fifth application fee was filed on September 12, 2017, but the

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<sup>1</sup> See *In re DC NY Tours LLC*, No. AP-17-166, Order No. 17,259 (Oct. 17, 2017); *In re DC NY Tours LLC*, No. AP-17-131, Order No. 17,167 (Aug. 22, 2017); *In re Amadeus Group LLC*, No. AP-17-112, Order No. 17,088 (July 17, 2017); *In re Michael Steven Rodriguez, t/a Amadeus Limo*, No. AP-17-014, Order No. 16,824 (Feb. 3, 2017); *In re Michael Steven Rodriguez, t/a Amadeus Limo*, No. AP-16-195, Order No. 16,735 (Dec. 9, 2016).

<sup>2</sup> See *In re DC NY Tours LLC*, No. AP-17-225, Order No. 17,365 (Dec. 19, 2017).

<sup>3</sup> Order No. 17,167.

application was not withdrawn. It was later dismissed on October 17, 2017,<sup>4</sup> while the instant refund request was pending.

## II. ANALYSIS

Regulation No. 67-01 provides that a \$300 fee "shall be paid as indicated at the time of filing" an application to obtain a certificate of authority authorizing irregular route operations. There is no provision for refund.

Mr. Rodriguez says that he would not have filed the fifth application on September 7, 2017, if he knew there was still time to submit information in the proceeding for the fourth application. The record shows, however, that the proceeding for the fourth application had been closed for two weeks when Mr. Rodriguez filed the fifth application. And although the Commission has on occasion reopened proceedings upon request and for good cause shown, no request to reopen the fourth application proceeding was ever filed. Moreover, ignoring the Commission's request for additional information four applications in a row - without explanation - hardly qualifies as good cause for reopening.

In any event, "[i]t has been the policy of this Commission to deny requests for refunds of application fees once an application is accepted for filing, even if the application is later withdrawn or dismissed."<sup>5</sup> Filing fees are "essentially non-refundable".<sup>6</sup> There is good reason for that:

The filing of an application for a certificate of authority necessitates an expenditure by the Commission of resources necessary to process that application. Filing fees help defray a portion of the cost of the Commission's operating expenses, the remainder of which is borne by the taxpayers of the Compact signatories. The Commission's fee schedule, adopted through notice-and-comment rulemaking, effects an allocation of the administrative expenses of the Commission between carriers subject to WMATC regulation and other filers, on the one hand, and taxpayers on the other. Excusing the payment of filing fees based on the individualized circumstances faced by hundreds of filers not only would upset the filer/taxpayer balance struck by the

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<sup>4</sup> Order No. 17,259.

<sup>5</sup> *In re Elias Zeleke*, No. AP-14-019, Order No. 15,421 (Mar. 3, 2015); see *In re G & M Limos and Bus Servs. Inc., t/a G & M Limo Servs.*, No. AP-09-124, Order No. 12,283 (Jan. 14, 2010) (denying request for refund of application filing fee); *In re Barney Neighborhood House and Social and Indus. Settlement, t/a Barney Neighborhood House*, No. AP-08-151, Order No. 11,679 (Nov. 12, 2008) (same); *In re Napoleon Woldeyohannes, t/a Napoleon Transp. Serv.*, No. AP-08-002, Order No. 11,241 (Mar. 31, 2008) (same).

<sup>6</sup> Order No. 15,421 at 2.

Commission's fee schedule, it would quickly prove administratively unworkable.<sup>7</sup>

**III. CONCLUSION**

For the reasons explained above, the petition for refund is denied.

IT IS SO ORDERED.

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



William S. Morrow, Jr.  
Executive Director

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<sup>7</sup> Order No. 15,421 at 2 (citation omitted). The \$300 application fee was adopted through notice-and-comment rulemaking in 2015. See *In re Regulation No. 67*, No. MP-15-015, Order No. 15,560 (May 1, 2015).