

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,685

IN THE MATTER OF:

Served June 19, 2018

Application of L.W. TRANSPORTATION, )  
INC., for a Certificate of )  
Authority -- Irregular Route )  
Operations )

Case No. AP-2018-064

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

Article XI, Section 7(a), of the Washington Metropolitan Area Transit Regulation Compact<sup>1</sup> provides that the Commission shall issue a certificate of authority to any qualified applicant, authorizing all or any part of the transportation covered by the application, if the Commission finds that: (i) 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; and (ii) the transportation is consistent with the public interest. An applicant must establish financial fitness, operational fitness, and regulatory compliance fitness.<sup>2</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 be sufficient to establish an applicant's fitness,<sup>3</sup> but this applicant has a history of regulatory violations.

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<sup>1</sup> 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).

<sup>2</sup> *In re Giron's Limo Service, Inc.*, No. AP-17-017, Order No. 16,934 (Apr. 11, 2017).

<sup>3</sup> *Id.* at 2.

## I. PAST VIOLATIONS

Applicant formerly held WMATC Certificate of Authority No. 398. The certificate was issued July 22, 1997, suspended twice for insurance violations (once in 2007<sup>4</sup> and once in 2011<sup>5</sup>), and revoked twice for annual fee/report violations (once in 2014<sup>6</sup> and once in 2017<sup>7</sup>). It was reinstated after the first revocation<sup>8</sup> but not the second, hence this application.

There is also the matter of applicant's failure to comply in a timely manner with the second revocation order, which gave applicant 30 days to surrender Certificate No. 398 and submit an affidavit and photos verifying removal of all WMATC vehicle markings.<sup>9</sup>

## II. 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.<sup>10</sup>

Inasmuch as the record in 2014 supported reinstating Certificate No. 398, the issue before us is whether the violation in 2017 dictates a different result.

The core violation in 2017 was applicant's failure to file a complete annual report for 2017. A review of the file reveals that the missing information consisted of a missing license plate number for one of the 19 vehicles listed in the report. A substitute report submitted during the course of this proceeding shows that the vehicle in question has been removed from applicant's fleet. And applicant has belatedly complied with the second revocation order by sufficiently explaining applicant's failure to produce the original Certificate No. 398 and by verifying removal of all WMATC vehicle markings.

At this point, the revocation has lasted more than 11 months. That is long enough on this record.

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<sup>4</sup> *In re L.W. Transp., Inc.*, No. MP-07-082, Order No. 10,430 (May 2, 2007).

<sup>5</sup> *In re L.W. Transp., Inc.*, No. MP-11-039, Order No. 12,832 (May 2, 2011).

<sup>6</sup> *In re L.W. Transp., Inc.*, No. MP-14-059, Order No. 15,060 (Sept. 18, 2014).

<sup>7</sup> *In re L.W. Transp., Inc.*, No. MP-17-048, Order No. 17,030 (June 1, 2017).

<sup>8</sup> *In re L.W. Transp., Inc.*, No. MP-14-059, Order No. 15,259 (Dec. 30, 2014).

<sup>9</sup> Order No. 17,030 at 3.

<sup>10</sup> Order No. 16,934 at 3-4.

### III. CONCLUSION

Based on the evidence in this record, 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 upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 398 shall be reissued to L.W. Transportation, Inc., 4600 Sutton Oaks Drive, Chantilly, VA 20151-2528.

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 398 has been issued 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; 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.

4. 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 RICHARD, MAROOTIAN, AND HOLCOMB:



William S. Morrow, Jr.  
Executive Director