

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,795

IN THE MATTER OF:

Served September 10, 2018

Application of SHALOM GENERAL)
TRANSPORTATION INC. for a) Case No. AP-2018-099
Certificate of Authority --)
Irregular Route Operations)

This matter is before the Commission on applicant's response to Order No. 17,643, served May 29, 2018, 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, verified, and 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 May 10, 2018, applicant was required to furnish supplemental information on or before May 24, 2018, pursuant to Commission Regulation No. 54-04(b). Applicant timely submitted some but not all of the required information. Accordingly, the application was dismissed May 29, 2018.

On May 30, 2018, applicant filed a request to reopen this proceeding. The request is supported 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. Such applications are governed by Article XI, Section 7(a), of the Compact.

In addition, applicant's president, Mr. Afework Tantu, is the 95% owner of Gold City Transportation Inc., WMATC Carrier No. 1316. Applications for approval to control two or more WMATC carriers are governed by Article XII, Section 3(a), of the Compact.

The application is unopposed.

A. Certificate of Authority

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.

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.

II. COMMON CONTROL RELATIONSHIP

Under Article XII, Section 3(a)(iii), of the Compact, "a carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means." Mr. Tantu's control of Gold City Transportation implicates this provision of the Compact in that Mr. Tantu will acquire control of another carrier that operates in the Metropolitan District upon the issuance of a WMATC certificate of authority to applicant.⁵

⁵ See *in re Arlington National Cemetery Tours, Inc*, No. AP-15-160, Order No. 15,913 (Oct. 20, 2015) (analyzing control as of issuance date of new certificate).

Under Article XII, Section 3(c), of the Compact, if the Commission finds that the proposed transaction is consistent with the public interest, the Commission shall issue an order authorizing the transaction. The Commission employs three criteria in determining whether a common-control transaction is consistent with the public interest: (1) the fitness of the acquiring party, (2) the resulting competitive balance, and (3) the interest of affected employees.⁶

A finding of applicant's fitness permits an inference of the acquiring party's fitness,⁷ in this case, Mr. Tantu.

The primary concern when assessing competitive balance is whether the transaction will increase the acquiring party's market share.⁸ Issuance of WMATC operating authority to applicant will not in and of itself increase the share of the WMATC-regulated market controlled by Mr. Tantu.

As for the issue of affected employees, Mr. Tantu states that the two companies will be operated independently of each other and that the "work environment" for Gold City employees will remain the same. There is no evidence to the contrary.

The foregoing analysis leads us to conclude that issuance of WMATC authority to applicant would be consistent with the public interest within the meaning of Article XII, Section 3(c), of the Compact.

III. CONCLUSION

In closing, Shalom General Transportation is admonished to keep its WMATC assets, books, finances and operations completely separate from those of Gold City Transportation.⁹ Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.¹⁰

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. 3213 shall be issued to Shalom General Transportation Inc., 2615 Evarts Street, N.E., Washington, DC 20018-1430.

⁶ *Id.* at 2.

⁷ *Id.* at 2.

⁸ *Id.* at 2.

⁹ See *id.* at 3 (requiring commonly-controlled carriers to keep assets, books, finances, and operations separate).

¹⁰ *Id.* at 3.

3. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued 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 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