

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 17,884

IN THE MATTER OF:

Petitions to Waive Regulation	)	Served October 25, 2018
No. 67-03, Filed by:	)	
ERROL SLOLEY SR, WMATC No. 2433	)	Case No. MP-2018-146
DAWIT B KETAW, WMATC No. 2993	)	
SPEED EXECUTIVE SERVICE LIMITED	)	
LIABILITY COMPANY, WMATC No. 3053	)	

This matter is before the Commission on the petitions of the above-captioned carriers for waiver of Regulation No. 67-03.

Commission Regulation No. 60-01 provides that each carrier holding a certificate of authority on the first day of the calendar year shall file an annual report on or before January 31 of that year. Regulation No. 67-02 provides that each carrier holding a certificate of authority on the first day of the calendar year shall pay an annual fee of \$150 on or before January 31 of that year.

Each of the above-captioned carriers held a certificate of authority on January 1, 2018. Each failed to comply in timely fashion with Regulation No. 60-01 and Regulation No. 67-02. As a result, each was automatically assessed \$300 in late fees pursuant to Regulation Nos. 67-03(a) and 67-03(b). Each carrier has paid said late fee(s) and is requesting a refund.

Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause." The Commission is consolidating these petitions into one proceeding pursuant to Rule No. 20-02 to resolve the common question of whether good cause has been shown to waive the aforementioned late fees under Regulation No. 67-03.<sup>1</sup>

After careful consideration of the grounds offered by each petition, we conclude that none establishes good cause for granting the relief requested, for the following reasons.

On December 21, 2017, the Commission emailed annual report and annual fee reminders to all carriers with an e-mail address on file,

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<sup>1</sup> See *In re Winter Growth, Inc.*, No. MP-08-084, Order No. 11,303 (Apr. 24, 2008) (consolidating Reg. No. 67-03 waiver petitions).

including each petitioner in this proceeding. On January 3, 2018, the Commission mailed annual fee invoices and prepopulated report forms to all carriers, including each petitioner. On January 26, 2018, the Commission e-mailed an annual report and fee reminder to each carrier who had reports or fees still outstanding, including each petitioner. On February 1, 2018, the Commission mailed late fee assessment notices to the address of record of each carrier that failed to timely file a fee or report. On April 3, 2018, the Commission mailed a final notice to each carrier that still owed outstanding annual reports, annual fees, or late fees, including each petitioner.

**I. Carrier No. 2433, Errol Sloley Sr**

Errol Sloley Sr was assessed \$300 in late fees. According to Commission records, the Commission received an annual fee and annual report from Mr. Sloley on February 1, 2018. In his petition, Mr. Sloley states that the WMATC e-filing system did not allow him to create an account and there was no information on the WMATC website about how to do so.

Petitioner is correct inasmuch as members of the public cannot create their own e-filing accounts. E-filing accounts are created by WMATC staff for authorized applicants and carriers and usernames and passwords are then assigned. Commission records indicate petitioner was furnished a username and password granting him access to an e-filing account on January 31, 2014, and that petitioner accessed the e-filing system on February 2, 2015.

The e-filing system does allow users who have forgotten their passwords to request to reset their passwords, in which case a new password is e-mailed to the user's e-mail address on file with the Commission. We note the WMATC E-filing system was functioning properly throughout the month of January. Hundreds of other carriers successfully made annual report filings or annual fee payments online during that time.

In any event, while petitioner may have preferred to use the WMATC e-filing system to tender the report and fee, his unsuccessful efforts to file online did not prevent him from tendering a hard copy annual report and \$175 check before the January 31, 2018, deadline, instead of after.

Accordingly, the petition of Errol Sloley Sr is denied.

**II. Carrier No. 2993, Dawit B Ketaw**

Dawit Ketaw was assessed \$300 in late fees. According to Commission records, the Commission received an annual fee and annual report from Mr. Ketaw on February 23, 2018.

In his petition, Mr. Ketaw states he was unaware of the report and fee filing requirements, he did not receive any notification by e-mail or mail, and he was out of state.

We are not persuaded by petitioner's professed lack of awareness of the filing requirements or argument that he did not receive timely notice of his annual report and fee obligations. Petitioner was on notice of those obligations first and foremost by virtue of the publication of Regulation Nos. 60-01 and 67-02 on the Commission's website at all times pertinent to this proceeding.

In addition, contrary to petitioner's assertion, the Commission has a record of e-mails advising of the report and fee filing requirements sent to petitioner's e-mail address of record on December 21, 2017, and January 26, 2018, and the Commission mailed invoices and prepopulated report forms to all carriers, including petitioner, on January 3, 2018.

Finally, being out of town does not constitute good cause for waiving late fees.<sup>2</sup> Accordingly, the petition of Dawit Ketaw is denied.

**III. Carrier No. 3053, Speed Executive Service Limited Liability Company**

Speed Executive was assessed \$300 in late fees. According to Commission records, petitioner filed its 2018 annual report and paid its annual fee on February 5, 2018.

In support of its petition, the owner of Speed Executive states that he was busy with family issues.

Although petitioner does not specify the nature of the family issues, we note that under Commission precedent, the illness of a family member of an officer of petitioner does not constitute good cause for waiving late fees.<sup>3</sup> Furthermore, the duty to comply with Commission requirements falls on the carrier, not its individual officers.<sup>4</sup> If a principal of petitioner was absent or incapacitated, petitioner could have delegated to others the task of complying with Commission requirements.<sup>5</sup> Accordingly, the petition of Speed Executive Service Limited Liability Company is denied.

THEREFORE, IT IS ORDERED:

1. That the above-captioned petitions are hereby consolidated for decision pursuant to Commission Rule No. 20-02.

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<sup>2</sup> *In re Landjet Transp. LLC*, No. MP-10-042, Order No. 12,399 at 3 (May 10, 2010).

<sup>3</sup> *In re M & M Medvan, Inc*, No. MP-12-054, Order No. 13,276 at 2 (May 18, 2012).

<sup>4</sup> Order No. 13,276 at 2.

<sup>5</sup> *In re Easton Coach Co.*, No. MP-13-052, Order No. 13,876 at 2 (Apr. 19, 2013) (denying late fee waiver after noting duty of carrier to appoint someone to review mail addressed to employee on maternity leave and address matters requiring immediate attention).

2. That all petitions are denied.

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

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

William S. Morrow, Jr.  
Executive Director