

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 18,275

IN THE MATTER OF:

Served July 19, 2019

Petitions to Waive Regulation)
No. 67-03, Filed by:)

Case No. MP-2019-114

WINTER GROWTH, INC., WMATC No. 178)

CHAVAN ENTERPRISES, LLC, WMATC)
No. 3046)

This matter is before the Commission on 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 \$175 on or before January 31 of that year.

Each of the above-captioned carriers held a certificate of authority on January 1, 2019. Each failed to meet the deadlines specified in 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 petitioner has paid said late fees 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. 67-03.¹

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 19, 2018, the Commission emailed annual report and annual fee reminders to all carriers with an e-mail address on file, including each petitioner in this proceeding. On January 2, 2019, the

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

Commission mailed annual fee invoices and prepopulated report forms to all carriers, including each petitioner. On January 28, 2019, 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, 2019, 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 11, 2019, the Commission mailed a final notice to each carrier that still owed outstanding annual reports, annual fees, or late fees, including each petitioner. On April 12, 2019, the Commission e-mailed a last reminder to each carrier that still owed outstanding annual reports, annual fees, or late fees, including each petitioner.

I. Carrier No. 178, Winter Growth, Inc.

Winter Growth, Inc., was assessed \$300 in late fees. According to Commission records, the Commission received an annual fee and an incomplete annual report from Winter Growth, Inc., on February 4, 2019. On February 5, 2019, Winter Growth filed an acceptable annual report. In its petition, Winter Growth states, "We had several issues causing us to be delayed in this filing."

Winter Growth does not specify the nature of the issues or how those unspecified issues prevented it from filing its annual fee and report by the January 31 deadline. Accordingly, we are unable to find that Winter Growth has met its burden of establishing good cause to waive Regulation No. 67-03. Therefore, the petition of Winter Growth, Inc., is denied.

II. Carrier No. 3046, Chavan Enterprises, LLC

Chavan Enterprises, LLC, was assessed \$300 in late fees. According to Commission records, the Commission received a 2019 annual fee and annual report from Chavan Enterprises on February 6, 2019. In its petition, Chavan Enterprises states "This is my first time and I am a struggling new business owner and these late fees will truly add to my financial burden."

Chavan Enterprises was issued WMATC Certificate of Authority No. 3046 in 2017, and Commission records indicate petitioner timely filed its 2018 annual report and fee. Thus, petitioner was aware of the deadline for submitting its annual report and annual fee. Regulation No. 67-03 prescribes late fees in each year in which a carrier fails to meet the filing deadlines. The fact that petitioner met the filing deadlines last year does not constitute good cause for waiving the late fees upon its failure to timely comply this year. Moreover, adopting a policy in which first-time late filers are excused from late fees would compel Commission staff to devote significant additional resources to researching the filing history of each carrier that is assessed a late fee, while undermining the

purpose of the late fees, which is to reduce the filing delinquency rate.²

Petitioner also cites the financial burden of the late fees and describes itself as struggling. A generalized claim of financial hardship unsupported by evidence of petitioner's financial condition does not constitute good cause for waiving fees.³

Accordingly, the petition of Chavan Enterprises, LLC, is denied.

THEREFORE, IT IS ORDERED:

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

2. That all petitions are denied.

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



Jeffrey M. Lehmann
Executive Director

² See *In re Rules of Prac. & Proc. & Regs.*, No. MP-11-106, Order No. 13,085 (Dec. 15, 2011) (increasing late fees for annual reports and annual fees due to unacceptably high delinquency rates).

³ *In re Tilly's Limousine & Sedan Servs., Inc.*, No. MP-12-028 at 2 (Apr. 10, 2012).