

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 18,913

IN THE MATTER OF: Served July 28, 2020

Petitions to Waive Regulation) Case No. MP-2020-125
No. 67-03, Filed by:)

D & D TRANSPORTATION SERVICE LLC,)
WMATC No. 2461)

MAZEN M OMARY, WMATC No. 2743)

SWYFT UP, LLC, WMATC No. 3154)

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, 2020. Each failed to comply with Regulation No. 60-01 and/or Regulation No. 67-02 on or before January 31. As a result, each carrier was automatically assessed \$150 for failing to pay the fee on time and/or \$150 for failing to file the report on time. Each carrier has filed a petition to waive the late fee(s). Under Rule No. 20-02, the Commission may consolidate two or more proceedings involving a common question of law or fact. Here, the common question is whether the Commission should waive Regulation No. 67-03.

Commission Rule No. 29 provides that the Commission may waive its rules "upon the filing of a motion showing good cause." Hence, the question is whether any of these petitions shows good cause for waiving said late fees.¹ After careful consideration of the grounds offered by each petition for waiving Regulation No. 67-03, we conclude that none constitutes good cause for granting the relief requested for the following reasons:

I. Carrier No. 2461, D & D Transportation Service LLC.

The Commission did not receive petitioner's 2020 annual report and 2020 annual fee payment until March 6, 2020. Under Regulation No. 67-03, petitioner was assessed \$300 in late fees.

Petitioner's president explains that she was unable to work from December 12, 2019, until January 14, 2020, due to injuries sustained in an automobile accident. However, the duty to comply with Commission

¹ *In re Winter Growth, Inc.*, No. MP-08-084, Order No. 11,303 (Apr. 24, 2008).

requirements falls on the carrier, not its individual officers.² If a principal of petitioner was absent or incapacitated, petitioner could have delegated to others the task of complying with Commission requirements.³ Moreover, petitioner offers no explanation why it did not file a 2020 annual report nor pay the 2020 annual fee until March, 6, 2020, when petitioner's president states her inability to work lasted until January 14, 2020.

Accordingly, the petition of D & D Transportation Service LLC is denied.

II. Carrier No. 2743, Mazen Omary

Petitioner was assessed \$150 in late fees. According to Commission records, petitioner timely paid an annual fee on January 23, 2020, and submitted an incomplete annual report on January 23, 2020. On January 23, 2020, the Commission e-mailed petitioner and informed it that the report was "not acceptable because it is not signed or dated." On March 18, 2020, petitioner belatedly submitted an acceptable annual report.

Petitioner claims financial hardship. However, the petition is not supported by evidence of petitioner's financial condition. A generalized claim of financial hardship unsupported by evidence of petitioner's financial condition does not constitute good cause for waiving late fees.⁴

Accordingly, the petition of Mazen Omary is denied.

III. Carrier No. 3154, Swyft Up, LLC

Petitioner was assessed \$150 in late fees. According to Commission records, petitioner timely paid an annual fee on January 15, 2020, and submitted an incomplete annual report that same day. On January 21, 2020, the Commission e-mailed petitioner and informed it that the report was "not acceptable because the signer's title in the signature block is missing."

On May 15, 2020, petitioner requested a waiver on the grounds that it "missed just one question from the Annual Report" and further stated that it "will update the info online this evening." However, almost two months later, petitioner has still yet to submit an acceptable annual report. Petitioner's failure to promptly rectify matters leaves the Commission without a sufficient basis for waiving the late fee.⁵

² *In re Xquisite Transp. L.L.C.*, No. MP-16-169, Order No. 16,596 (Sept. 29, 2016).

³ *In re Nationwide Patient Transp., L.L.C., t/a DMV Patient Transp.*, No. MP-17-101, Order No. 17,118 (July 27, 2017) (denying late fee waiver after noting duty of carrier to delegate to someone the task of complying with Commission requirements).

⁴ *In re Robert Earle Good Jr., t/a Reliable Transp.*, No. MP-17-101, Order No. 17,118 (July 27, 2017).

⁵ *In re Patricia Transp., LLC*, No. MP-17-101, Order No. 17,118 (July 27, 2017).

Accordingly, the petition of Swyft Up, 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