

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,690

IN THE MATTER OF:

Served February 9, 2022

Application of EVOLVE)
TRANSPORTATION SERVICES INC for a) Case No. AP-2021-150
Certificate of Authority --)
Irregular Route Operations)

This matter is before the Commission on applicant's response to Order No. 19,663, served January 5, 2022, 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 December 13, 2021, applicant was required to furnish supplemental information on or before December 27, 2021, pursuant to Commission Regulation No. 54-04(b). Applicant timely submitted some but not all of the required information. Accordingly, the application was dismissed January 5, 2022.

On January 19, 2022, applicant filed a request to reopen this proceeding. The request is accompanied 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. The application is unopposed.

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.

Normally, such evidence would establish an applicant's fitness, but applicant's owner, Folashade Brown, has a history of controlling a company with regulatory violations.

A. History of Violations

According to Commission records, Folashade Brown was the owner of Evolve Healthcare Services Incorporated, which held WMATC Certificate of Authority No. 3399 from November 6, 2020, to June 3, 2021, when it was revoked for Evolve Healthcare's failure to comply with the Commission's annual report and annual fee requirements.⁵ The revocation order noted that the 2021 annual report and \$175 2021 annual fee would remain due and gave Evolve Healthcare 30 days to surrender Certificate No. 3399 to the Commission and file a notarized affidavit and supporting photographs verifying removal of WMATC markings from applicant's vehicles. Evolve Healthcare did not comply.

B. Likelihood of Future Compliance

When an applicant or a person controlling an applicant has a record of regulatory 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

⁵ *In re Evolve Healthcare Servs. Inc.*, No. MP-21-067, Order No. 19,390 (June 3, 2021).

ability to comport with the Compact and rules and regulations thereunder in the future.⁶

The violations listed above were serious enough to warrant revocation of Certification No. 3399. On the other hand, Evolve Healthcare belatedly filed a 2021 annual report and paid the outstanding 2021 annual fee in August 2021. Furthermore, while the instant application was pending, Evolve Healthcare filed a notarized statement asserting that Certificate No. 3399 cannot be located and filed notarized statements and supporting photographs evidencing removal of WMATC markings from Evolve Healthcare's vehicles. There is no evidence in the record of post-suspension or post-revocation operations within the Metropolitan District, or other unauthorized operations.

The Commission has found other applicants fit under similar circumstances.⁷ Applicant shall serve a 1-year period of probation as a means of ensuring prospective compliance.⁸

C. Conclusion

Based on the evidence in this record, and considering the terms of probation and other conditions prescribed herein, 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 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. 3399 shall be issued to Evolve Transportation Services Inc, 2705 26th Street, N.E., Washington, DC 20018.
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.

⁶ *In re Metro Transcare LLC*, No. AP-17-047, Order No. 17,193 at 3 (Sept. 8, 2017).

⁷ See, e.g., *In re Galaxy Limo. Servs., LLC*, No. AP-15-099, Order No. 16,044 (Dec. 11, 2015) (timely cessation of affiliate operations, surrender of affiliate certificate, payment of outstanding affiliate fees, confirmation of no vehicle markings); *In re Henka Int'l, Inc., t/a Worldwide Tours & Travel*, No. AP-03-184, Order No. 8035 (May 27, 2004) (no evidence of post-suspension operations and satisfactory accounting for vehicles and vehicle markings).

⁸ See Order No. 16,044 (same); Order No. 8035 (same).

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 applicant shall be placed on probation for a period of one year commencing with the issuance of Certificate No. 3399 in accordance with the terms of this order and that a willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, by applicant during the period of probation shall constitute grounds for immediate suspension and/or revocation of applicant's operating authority without further proceedings, regardless of the nature and severity of the violation.

6. 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 AND LOTT:



Jeffrey M. Lehmann
Executive Director