

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 19,862

IN THE MATTER OF:

Served August 16, 2022

Application of LEGACYBUS LLC for a)
Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2022-047

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. The application is unopposed.

Applicant was granted operating authority in 2017, but the issuance of a certificate of authority was expressly made contingent on applicant filing additional documents and passing a vehicle inspection conducted by Commission staff.¹ Applicant failed to satisfy the conditions for issuance of operating authority within the time allotted, thereby voiding the Commission's approval.²

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. If the applicant does not make the required showing, the application must be denied under Section 7(b).

An application for a certificate of authority must be in writing, verified, and in the form and with the information that Commission regulations require.³ Commission Regulation No. 54 requires applicants to complete and file the Commission's application form. The form itself requires supporting exhibits. Commission Regulation No. 54-04(b) stipulates that an applicant may be required to furnish additional information necessary to a full and fair determination of the application. The evidence thus submitted must establish a prima facie case of fitness and consistency with the public interest.⁴

¹ See *In re Legacybus LLC*, No. AP-17-146, Order No. 17,288 (Nov. 6, 2017) (conditionally granting Certificate No. 3092).

² See *id.* (grant of authority void upon applicant's failure to timely satisfy conditions of issuance); Commission Regulation No. 66-01 (failure to comply with conditions of grant within 180 days voids approval).

³ Compact, tit. II, art. XI, § 8.

⁴ *In re Maryma Trans LLC*, No. AP-15-134, Order No. 15,796 (Aug. 14, 2015).

On the application form, applicant stated it plans to begin operations with seven minibuses and also stated it holds USDOT No. 2938725. But the website of the Federal Motor Carrier Safety Administration Safety and Fitness Electronic Records (SAFER) System shows that applicant currently operates 25 vehicles, rather than 7 as applicant stated to the Commission. Applicant was asked to explain this discrepancy and responded with a signed statement, filed April 28, 2022, stating "Legacybus LLC operating 7 vehicles instead of 25 is because of the pandemic and we are not operating all vehicles USDOT 2938725."

Applicant's response left open the possibility that it does possess more than seven vehicles. Under routine Commission procedures, when the Commission approves an application for a certificate of authority, that approval is conditional, and a certificate will only be issued if an applicant successfully presents all its revenue vehicles for inspection and produces certain documents, including for-hire vehicle registration cards and current safety inspection certificates for each registered revenue vehicle in an applicant's fleet, within 180 days.⁵ Therefore, if an application is conditionally approved, the composition of an applicant's fleet is relevant to determining whether an applicant has fulfilled the conditions of issuance of a certificate of authority.

Accordingly, by email dated May 12, 2022, applicant was directed to file with the Commission a vehicle list containing "each vehicle in applicant's possession, including the 25 vehicles associated with USDOT Number 2938725." On May 25, 2022, applicant responded by producing a vehicle list containing seven 24-passenger vehicles. However, records obtained from the Maryland Motor Vehicle Administration show that applicant currently owns three additional actively registered passenger buses that it failed to report to the Commission, leases a fourth, and co-owns a fifth vehicle, a luxury sedan.

A certain level of candor is required of applicants for WMATC operating authority.⁶ In light of applicant's failure to report to the Commission all the revenue vehicles in its possession, we cannot say that applicant has met its burden of production and persuasion on the issue of fitness to serve the public.⁷

⁵ See Order No. 17,288 at 2-3 (listing conditions of issuance of certificate of authority).

⁶ *In re Best Time Transp. Inc.*, No. AP-21-108, Order No. 19,686 at 4 (Feb. 2, 2022); *In re Terragrade Transp. Inc.*, No. AP-20-082, Order No. 19,246 at 4 (Feb. 8, 2021); *In re Hana Bus. Grp. Inc.*, No. AP-18-071, Order No. 18,562 at 5 (Dec. 16, 2019).

⁷ See Order No. 19,246 (denying application after misleading statement regarding vehicles in applicant's fleet).

THEREFORE, IT IS ORDERED that the application of Legacybus LLC for a certificate of authority, irregular route operations, is hereby denied without prejudice.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS RICHARD AND LOTT:



Jeffrey M. Lehmann
Executive Director