

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

SILVER SPRING, MARYLAND

ORDER NO. 20,069

IN THE MATTER OF:

Served February 7, 2023

Application of CENTRAL AVENUE)
TRANSPORTATION SERVICES LLC,)
Trading as CENTRAL AVENUE BUS)
SERVICE, for Restrictive Amendment)
of Certificate of Authority)
No. 3595)

Case No. AP-2023-029

Application of CENTRAL AVENUE)
TRANSPORTATION SERVICES LLC,)
Trading as CENTRAL AVENUE BUS)
SERVICE, for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-2022-162

Certificate of Authority No. 3595 was conditionally granted to Central Avenue Transportation Services LLC, trading as Central Avenue Bus Service, on November 29, 2022, in Order No. 19,994, but the certificate has not been issued yet. By application filed February 1, 2023, applicant seeks to amend the conditional grant from unrestricted authority to restricted authority.

The restriction would confine applicant's operations to vehicles with a seating capacity of less than 16 persons, including the driver, thereby reducing from \$5 million to \$1.5 million applicant's minimum insurance obligation under Commission Regulation No. 58.

Under Regulation No. 54-08, the Executive Director may approve an application to add a seating capacity restriction to a certificate of authority.

Applicant proposes conducting WMATC operations using one van with a seating capacity of 13 persons. In a signed statement filed January 17, 2023, applicant's president disclosed that applicant's fleet also contains five school buses with seating capacities ranging from 30 to 44 persons.

Under Article XI, Section 3(d), of the Compact, "transportation by a motor vehicle employed solely in transporting teachers and school children through grade 12 to or from public or private schools" is excluded from the Commission's jurisdiction. The "employed solely" test must be met at all times, not just when the vehicle in question is being

used as a school bus.¹ Hence, transportation of students and teachers to and from school in a vehicle used for nonexempt purposes on other occasions is subject to regulation by the Commission.² It is presumed that a carrier does not partition its fleet into exempt and non-exempt operations.³ This places the burden on applicant to come forward with evidence to the contrary.⁴

In her statement, applicant's president avows that applicant's five school buses are used exclusively to provide transportation services covered by the exemption. In light of the evidence that applicant has partitioned its fleet into exempt and non-exempt operations, and that applicant's vehicles with a seating capacity greater than 15 persons are never used in operations subject to the certification requirements of the Compact, the application to add a seating capacity restriction shall be approved.

THEREFORE, IT IS ORDERED:

That upon applicant's timely compliance with the requirements of Order No. 19,994, Certificate of Authority No. 3595 shall be issued with a 15-person seating capacity restriction to Central Avenue Transportation Services LLC, trading as Central Avenue Bus Service, 4011 Massachusetts Avenue, S.E., Washington, DC 20019-2906.

FOR THE COMMISSION



Jeffrey M. Lehmann
Executive Director

¹ *In re Green's Transp. Co.*, No. MP-11-038, Order No. 13,043 at 3 (Nov. 8, 2011).

² *In re Laidlaw Transit (Virginia) Inc., & Williams Bus Lines, Inc.*, No. AP-96-46, Order No. 4918 (Sept. 3, 1996).

³ Order No. 13,043 at 3; *In re Exquisite Limo. Serv. LLC*, No. MP-15-152, Order No. 16,268 at 4 (Mar. 30, 2016).

⁴ *Cf.* Order No. 13,043 at 3 (placing burden of demonstrating fleet partition on respondent); Order No. 16,268 at 4 (same).