

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7279

IN THE MATTER OF:

Served June 30, 2003

METRO HEALTH-TECH SERVICES INC.,)
WMATC No. 589, Investigation of)
Tariff and Lease Violations)

Case No. MP-2003-66

This investigation is being initiated to determine whether respondent has violated the Compact and Commission regulations by providing contract passenger service in the Metropolitan District using non-owned vehicles without having filed the contract as a tariff and without having filed a lease.

On December 16, 2002, the Commission received a list of carriers providing passenger service in the Washington Metropolitan Area under contracts with LogistiCare Solutions, LLC, WMATC Carrier No. 524.¹ Respondent's name was on the list, but the Commission could find no record of respondent having filed the contract as a tariff.² Commission staff advised respondent to file a LogistiCare contract tariff, and any applicable lease,³ no later than January 10, 2003. On January 16, 2003, respondent assured the Commission that the necessary documents would be filed the following day. Despite that assurance, no such tariff has been filed. No lease has been filed, either.⁴

The Commission may investigate whether a person has violated the Compact and for the purpose of an investigation "may administer oaths and affirmations, subpoena witnesses, compel their attendance,

¹ LogistiCare has a contract with the Washington Metropolitan Area Transit Authority to operate a transportation service for disabled passengers under the name "MetroAccess." LogistiCare primarily operates a reservation system and subcontracts the bulk of the transportation function to other carriers.

² Article XI, Section 14, of the Compact and Commission Regulation No. 55, require each WMATC carrier to charge only those rates and fares specified in a tariff filed by the carrier under the Compact and in effect at the time.

³ In most cases, LogistiCare furnishes the vehicles. Regulation No. 62-02 requires each WMATC carrier to file a lease with the Commission for each non-owned vehicle.

⁴ Respondent's annual report for 2002 lists two Ford Crown Victorias, the type of vehicle that LogistiCare furnishes its subcontractors.

take evidence, and require the production of books, papers, correspondence, memoranda, contracts, agreements, or other records or evidence which the Commission considers relevant to the inquiry."⁵ In addition, the Commission "shall have access at all times to the accounts, records, memoranda, lands, buildings, and equipment of any carrier for inspection purposes."⁶

If the Commission finds a person has violated the Compact, the Commission shall issue an order compelling compliance and effecting other just and reasonable relief.⁷ A person who knowingly and willfully violates a provision of the Compact is subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for each subsequent violation.⁸ Each day of the violation counts as a separate violation.⁹ The Commission may suspend or revoke a certificate of authority for willful failure to comply with the Compact or Commission rule, regulation or order thereunder.¹⁰

We shall direct respondent to produce any and all records and documents in its possession, custody or control relating to transportation of passengers for hire between points in the Metropolitan District during the period beginning December 1, 2002, and ending on the date of this order. We also shall direct respondent to present its vehicles for inspection.

THEREFORE, IT IS ORDERED:

1. That an investigation of respondent and its operations in the Washington Metropolitan Area Transit District is hereby initiated under Article XIII, Section 1, of the Compact.

2. That respondent is hereby directed to immediately bring its operations into compliance with the Compact and Commission regulations.

3. That respondent is hereby directed to produce, within thirty days from the date of this order, any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning December 1, 2002,

⁵ Compact, tit. II, art. XIII, § 1(c), (e).

⁶ Compact, tit. II, art. XII, § 1 (b).

⁷ Compact, tit. II, art. XIII, § 1(d).

⁸ Compact, tit. II, art. XIII, § 6(f).

⁹ Compact, tit. II, art. XIII, § 6(f).

¹⁰ Compact, tit. II, art. XI, § 10(c).

and ending on the date of this order, including, but not limited to any and all:

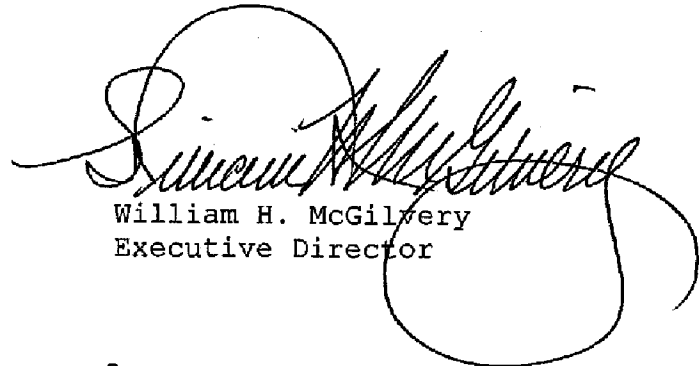
- a. customer contracts and invoices;
- b. invoices from other carriers;
- c. evidence of communications, including telephone logs, facsimile transmissions, and correspondence;
- d. calendars and itineraries;
- e. bank records;
- f. payroll records;
- g. insurance documents;
- h. advertising materials;
- i. internal corporate documents, such as articles of incorporation, bylaws, and minutes;
- j. income tax and personal property returns; and
- k. USDOT Forms MCS-150.

4. That within thirty days from the date of this order, respondent shall present its vehicles for inspection by Commission staff.

5. That Certificate of Authority No. 589 shall be automatically suspended upon respondent's failure to timely comply with this order.

6. That in the event Certificate of Authority No. 589 is suspended pursuant to the preceding paragraph, respondent shall have thirty days thereafter to show cause why Certificate of Authority No. 589 should not be revoked for willful failure to comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER, AND MCDONALD:



William H. McGilvery
Executive Director

