

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
WASHINGTON, D. C.
ORDER NO. 165

Served June 26, 1962

IN THE MATTER OF:

Application for a Certificate
of Public Convenience and
Necessity by

Application Number

Harold A. Murdock, dba Murdock Sightseeing Tours	36
John P. Gooch, dba Silver Star Sightseeing Tours	32
Broadus T. Langyher	31
George Thomas Breedlove	29
Anthony Berry	28
Alfred G. Hammond	27
Beulah C. Miller	26
Theodore T. Farrah	25
Francis M. Taylor	24
Charles L. Boteler, dba Mayflower Sightseeing Tours	22
James H. Connick, dba National Capital Tours	16
Charles and Mildred Hoff, dba Midway Tours	15
Archie L. Milling, dba Milling Tours	14

Applications for certificates of public convenience and necessity were filed by the above under Sec. 4(a), Article XII, of the Washington Metropolitan Area Transit Regulation Compact, which section is commonly referred to as the "grandfather clause." While the applications were separately filed and considered, the Commission is of the opinion that they can and should be consolidated for purpose of decision. The facts of the cases are based upon the material contained in the applications and/or statements made to the Commission in personal interviews held on May 31 and June 1, 1962.

FACTS OF THE CASE

The applicants are all owners and operators of vehicles having a seating capacity of eight passengers or less, excluding the driver. They engage exclusively in transporting passengers for hire in sight-seeing operations in the Metropolitan District. Some of the vehicles are licensed only in the District of Columbia, some only in Virginia, and some in both jurisdictions. Some of the applicants operate exclusively from sidewalk stands, while others solicit business from the various hotels and motels in the area.

Most of the applicants have printed pamphlets or brochures to advertise their business. The pamphlets usually set forth various tours to the different governmental and historical points of interest in and around the Nation's Capital.

The tours set forth in the pamphlets cannot be considered as schedules or route descriptions, for they are suggestive only, being nothing more than proposals to prospective riders. While the applicants hold themselves out to render only sightseeing service, thus limiting the class of people served, the salient factor of their operations is that the passenger directs where and when the vehicle goes. None of the applicants held certificates of public convenience and necessity from the Interstate Commerce Commission for the interstate aspect of their service, that transportation having been considered to be a bona fide taxicab operation under the Interstate Commerce Act. Nor were such certificates issued by the District of Columbia Public Utilities Commission, since the operations were not over regular routes within the District of Columbia.

The operations, beside being seasonal, are rendered sporadically, depending completely upon the call and direction of the passengers.

ISSUE

The determining issue raised by the applications is whether or not the transportation performed by the applicants on March 22, 1961, the effective date of the Compact, is subject to the Compact, and if so, to what extent.

OPINION

Section 1(a), Article XII, of the Compact provides that it "shall apply to the transportation for hire . . . of persons between any points in the Metropolitan District . . .," with certain exceptions not material to this proceeding. It further states: "1(c) Notwithstanding the provisions of paragraph (a) of this section, this Act shall apply to taxicabs and other vehicles having a seating capacity of eight passengers or less in addition to the driver thereof with respect only to (i) the rate or charges for transportation from one signatory to another within the confines of the Metropolitan District, and (ii) requirements for minimum insurance coverage."

A taxicab is defined in Section 2(d): "The term "taxicab" means any motor vehicle for hire (other than a vehicle operated, with the approval of the Commission, between fixed termini on regular schedules) designed to carry eight persons or less, not including the driver, used for the purpose of accepting or soliciting passengers for hire in transportation subject to this Act, along the public streets and highways, as the passengers may direct."

The Commission is of the opinion and finds that the operations conducted by the applicants on March 22, 1961, as hereinabove discussed, were in vehicles having a seating capacity of eight passengers or less, excluding the driver, over irregular routes, non-scheduled, on call, and directed by the passenger and as such fall within the definition of a taxicab. Therefore, the only jurisdiction to be exercised by the Commission over applicants is their rates and minimum insurance.

The Commission wishes to state, as a matter of policy, that its decision would be materially different if any of the applicants conducted a scheduled or routed operation. For example, if one held himself out to depart from the Jones Motel at 9:30, to the Tomb of the Unknown Soldier, thence to the White House, thence to Mount Vernon, and return to the motel, would visit no other location nor vary the departing time and length of time of the tour, so as to remove the vehicle from the direction of the passenger, the transportation performed would thus no longer meet the definition of a "taxicab" and

therefore would require a certificate of public convenience and necessity before engaging in such transportation.

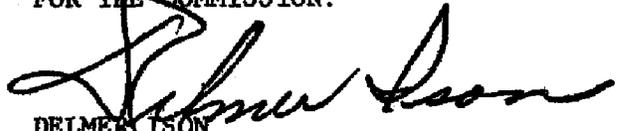
Based on the foregoing findings, the applications should be dismissed.

THEREFORE, IT IS ORDERED:

1. That applications 14, 15, 16, 22, 24, 25, 26, 27, 28, 29, 31, 32, and 36 be, and they are hereby, dismissed.

2. That any person affected by this order may, within thirty (30) days after the publication hereof, file with the Commission an application in writing requesting a reconsideration of the matters involved, and stating specifically the errors claimed as grounds for such reconsideration.

FOR THE COMMISSION:

A handwritten signature in cursive script, appearing to read "Delmer Ison", written over a horizontal line.

DELMER ISON
Executive Director