

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 213

Served November 1, 1962

IN THE MATTER OF:

Application of Vernoy Franklin)	
for a Certificate of Public)	Application No. 211
Convenience and Necessity)	Docket No. 24

APPEARANCES:

Henry Mackall, attorney for the applicant.

S. Harrison Kahn, attorney for A. B. & W. Transit Company, Diamond Tours, Inc. and the Gray Line, Inc., protestants.

John R. Sims, Jr. and Harold Smith, attorneys for D. C. Transit System, Inc., protestant.

Vernoy Franklin filed an application for a certificate of public convenience and necessity to authorize the transportation of passengers and their baggage in the same vehicle, in special or charter operations, in the Metropolitan District. Notice of the application and hearing thereon was given as required. A hearing on the application was held on September 5, 1962, before Examiner Russell W. Cunningham. Notices of protest were filed by the A. B. & W. Transit Company, Diamond Tours, Inc., Gray Line, Inc., D. C. Transit System, Inc. and the W. V. & M. Coach Company, Inc. All appeared or were represented at the hearing, with the exception of W. V. & M. Coach Company, which was dismissed as a party of record.

Four witnesses and the applicant himself testified in behalf of the application. Two witnesses testified in opposition thereto.

The application was amended at the hearing to authorize points of origin only in the State of Virginia, and further restricted to charter operations; therefore, the authority sought is to transport passengers

and their baggage in the same vehicle, in charter operations from points and places in the counties of Arlington and Fairfax, and cities of Alexandria, Falls Church and Fairfax, Virginia, to points and places in the District of Columbia and the counties of Montgomery and Prince George's, Maryland, and return.

FACTS OF THE CASE

The applicant is a resident of Fairfax, Virginia. He is principally engaged in transporting children to and from schools in northern Virginia. He owns and operates a fleet of more than fifteen school buses. Since October 1960, he has held authority from the State Corporation Commission of Virginia to engage in charter and special operations in intrastate commerce in Virginia. He performs the latter transportation in the same school bus equipment. His testimony indicates that he performs his own maintenance of equipment and that the buses are located in various parts of northern Virginia. He testified at length about the actual operations of his service, including both the school and charter work; his income and expenditures; the proposed service and proposed fares; the number of employees and their emoluments. He also stated that he knew W. V. & M. Coach Company and A. B. & W. Transit Company provided charter service from the Virginia area he seeks to serve. It appears that his proposed service would be cheaper than the companies presently holding authority and that he seeks primarily to serve youth organizations and other similar groups, particularly those of non-profit status.

The accountant who keeps Mr. Franklin's records testified as to his financial condition, matters relating to the purchase of equipment, and wages paid to employees. It appears that the applicant has approximately four employees on a full-time basis and the remainder, probably fifteen to twenty in number, are on a part-time basis. His transportation revenues in 1961 were approximately \$58,000, with expenditures amounting to approximately \$51,000. Of the \$58,000 revenue, approximately \$6,000 was derived from intrastate Virginia charter and special operations.

The remaining three supporting witnesses generally favored the applicant for the reason that it appeared to them that the proposed service will be available at a cheaper rate than that charged by the protesting carriers. One of those witnesses is connected with a Little League baseball association. It appears that his organization presently uses a car pool arrangement, and they have never used the applicant's intrastate service, but it has been available to them. His prime consideration in this matter is trying to secure service at a reduced price for a group which depends on donations in order to operate. Another witness, connected with the YMCA in Arlington County, testified that his organization has used the applicant's intrastate service, but has not used the service offered by the protestants because of financial

reasons, i.e., that the service available is too expensive. The final witness testifying on behalf of the applicant was connected with a Girl Scout organization and indicated that the Girl Scouts had used the intrastate service rather extensively. She indicated that the granting of authority to the applicant would allow the Girl Scouts to expand their activities into the District of Columbia and Maryland. It appears that the Girl Scouts would not use the existing service because of their present fare structure, and she indicated that they would not use the applicant's service if his rates are at the same level as the existing carriers.

The two witnesses testifying on behalf of the protestants were associated with the A. B. & W. Transit Company, Inc. and D. C. Transit System. Their testimony was similar and can be summarized as indicating they have the required operating authority to perform the transportation for which applicant seeks authority; that they are willing and eager to perform such transportation; that they have been and are currently providing such transportation; that the service they have provided has been free of complaints. That the carriers' revenues from this transportation is a vital feature of their over-all operation and necessary for the successful conduct of all transportation, including regular route operations. That the issuance of the authority sought would reduce their revenues and impair their financial condition.

ISSUES

1. Does or will the public convenience and necessity require the transportation sought?
2. Is the applicant fit, willing and able to perform such operations.

OPINION

The applicant seeks primarily to perform charter operations which would originate in northern Virginia. The applicant's contention is that he would provide a different type of service than that provided by any of the protestants, in that his service would be designed for non-profit organizations who would be willing to be transported in the less comfortable and convenient school bus equipment, at a low rate. His contention is that these organizations will not use the existing services because the rates are beyond their means. The transportation would be rendered in vehicles known as school buses, as contrasted with the urban type equipment utilized by the existing carriers, and which currently are two to three times more expensive than the school buses to be used in the proposed service. The proposed rate appears to be considerably lower than those now authorized by the protestants,

who are legally authorized to originate charter service in the area applied for, and one of which currently is conducting regular route operations in part of this area. The applicant is primarily engaged in providing contract carriage for the school system in the northern Virginia area. The protestants have invested large sums of money for an extensive amount of equipment; the regular route carriers are also obligated to carry a large number of employees on their payrolls on a full-time basis. It appears that all three witnesses who appeared in support of the application knew that the protestants provided the service, but supported the applicant's proposed service mainly because his proposed rates were lower. Two of the three witnesses have never utilized the existing service of the protestants, and therefore could not express an opinion as to the adequacy of service provided by them. The third witness had used the facilities of W. V. & M. Coach Company several times and expressed dissatisfaction with both the service and the rates.

The Commission is of the opinion and finds that the public convenience and necessity does, and will in the future, require the proposed transportation. While the Commission is aware of and appreciates the fact that regular route carriers need the supplemental revenues from charter and special operations to offset expenses arising from the very nature of regular route service, such as rush hour demands and the attendant expenses resulting therefrom, and the need to promote stability of all existing carriers; the hard fact remains that there is a definite need for the proposed service, and the protestants are unable and/or unwilling to provide such service to meet this existing and future need. Charter service conducted in school bus vehicles will entice very few customers from those now utilizing the service of the protestants, and yet will enable youth and other similar organizations to secure bus transportation at a price these organizations can afford.

The Commission is of the further opinion and finds that the applicant is fit, willing and able to perform the transportation hereinafter authorized and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder.

The Commission is of the further opinion and finds that a certificate of public convenience and necessity should be issued to the applicant to transport charitable and public supported groups, including but not limited to, public, parochial and private schools, churches, Boy and Girl Scouts, and other similar groups in charter operations from points and places in the counties of Arlington and Fairfax, and the cities of Alexandria, Falls Church and Fairfax, Virginia, to points and places in the District of Columbia and the counties of Montgomery and Prince George's, Maryland; restricted, however, to the use of school bus vehicles only.

Because of the restricted nature of the authority granted herein, the Commission is of the opinion that acceptance of said certificate must be predicated on the condition that said certificate shall not be subject to transfer and shall be operated only by the applicant herein.

THEREFORE, IT IS ORDERED:

1. That Certificate of Public Convenience and Necessity No. 6 be, and it is hereby, granted to Vernoy Franklin to transport passengers for hire as follows:

IRREGULAR ROUTE CHARTER OPERATION:

Charitable and public supported groups, including but not limited to, public, parochial and private schools, churches, Boy and Girl Scouts, and similar groups in charter operations, in interstate commerce.

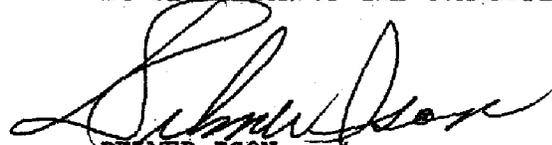
From points and places in Arlington and Fairfax Counties, and the cities of Alexandria, Falls Church and Fairfax, Virginia, to points and places in the District of Columbia and in the counties of Montgomery and Prince George's, Maryland, and return.

Restricted to the performance of such transportation in school bus type vehicles only. And further restricted that this grant of authority shall not be subject to transfer in any manner or form.

2. That unless compliance is made by said applicant with the tariff and insurance requirements of the Commission and acceptance of the restrictions and conditions contained in the certificate within thirty (30) days after the date of this order, the granting of authority given in this order shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the compliance time set forth above.

3. That in all other respects, the application be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



DELMER ISON

Executive Director