

BEFORE THE  
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 325

IN THE MATTER OF:

Served October 25, 1963

Application of W M A Transit )  
Company for a Certificate of )  
Public Convenience and Necessity. )

Application No. 253

Docket No. 42

APPEARANCES:

STANLEY KAMEROW, Attorney for the applicant.

C. ROBERT SARVER, Attorney for D. C. Transit  
System, Inc., protestant.

MARIE DE NOVENS, pro se, intervenor.

The W M A Transit Company filed an application for a certificate of public convenience and necessity to authorize it to transport passengers for hire in regular route common carrier operations as follows:

Westbound

Leave NASA via Greenbelt-Glendale Road, right on Southway to Crescent Road, right on Crescent Road to Eastway, right on Eastway to Ridge Road, left on Ridge Road to Laurel Hill Road, left on Laurel Hill Road to Hillside Road, thence left on Hillside Road to its intersection with Crescent Road, thence right on Crescent Road to Edmonston Road, left on Edmonston Road to Calvert Road, thence left on Calvert Road to Kenilworth Avenue, thence right on Kenilworth Avenue to East Capitol Street, thence right on C Street, N. E., thence right on 6th Street, N. E., thence left on C Street, N. E., thence left on 4th Street, N. E., thence right on Maryland Avenue to Constitution Avenue, thence right on Constitution Avenue to its intersection with Pennsylvania Avenue, right on Pennsylvania Avenue, thence right on 11th Street, N. W. to terminal.

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Eastbound

Leave terminal via 11th Street, N. W., thence right on E Street, N. W., thence right on 3rd Street, N. W., thence left on Adams Drive, thence right on 2nd Street, S. W., thence left on Independence Avenue to its intersection with East Capitol Street, thence right on East Capitol Street, thence left on Kenilworth Avenue, thence left on Calvert Road, thence right on Edmonston Road, thence right on Crescent Road, thence left on Hillside Road, thence right on Laurel Hill Road, thence right on Ridge Road, thence right on Eastway, thence left on Crescent Road, thence left on Southway, thence left on Greenbelt-Glendale Road to NASA.

Non-Rush Hour Service

During the non-rush hour period the above described service would terminate on westbound trips at a layover point at Eastern Avenue and Kenilworth Avenue. Conversely the above described service during the non-rush hour period would originate the eastbound at the layover point at Eastern Avenue and Kenilworth Avenue. The rush hour service would operate express between the applicant's terminal at 11th Street, N. W., and the D. C.-Maryland boundary line on Kenilworth Avenue. The non-rush hour service would tie in with Protestant D. C. Transit System's present service at the intersection of Kenilworth Avenue and the Maryland-D. C. boundary.

The Commission set the matter for hearing. Notice of the application and hearing was published in compliance with Commission order. Protest to the application was made by D. C. Transit System, Inc. The hearing was held on July 25, 1963, before Examiner Russell W. Cunningham.

FACTS

W M A proposes to operate regular route service between the NASA Flight Center, just east of Greenbelt, Maryland, and its terminal at 11th and Pennsylvania Avenue, N. W., Washington, D. C., serving the town of Greenbelt and other intermediate stops in Prince Georges County, Maryland. As indicated above, in the rush hours through service would be provided, with the route portion between its Washington Terminal and the D. C. -Maryland line providing express service. In the non-rush hours, the applicant would turn around its inbound service at the D. C. line, requiring passengers to transfer to D. C. Transit for the remainder

of the trip into Washington -- and the outbound service would be the reverse of this, from Washington outbound on D. C. Transit to the D. C. line, then transfer to W M A for the Maryland portion of the ride. The applicant proffered eleven exhibits, one of which was properly rejected by the Examiner.

To support its application, the applicant offered testimony by its Executive Vice President and four public witnesses appeared in support of the application. In addition, a public witness appeared to support her need, and others similarly situated, for service from Washington to NASA.

Witness Sardinia testifying for the applicant, testified at length as to the type of service to be rendered, fares to be charged, the lack of service presently provided for residents of Greenbelt and employees of the NASA Flight Center. He testified that the population of Greenbelt is approximately 8,000 people and that a large apartment development containing approximately 5,000 apartment units is nearby. He further testified to the large industrial park located adjacent to Kenilworth Avenue where such organizations as Pepsi Cola and Southern Oxygen employ hundreds of employees which, he related, are now without service. He also stated that he had discussed the proposed service with officials of Greenbelt.

Public Witnesses in Support of the Application. These included the Mayor of Greenbelt, who testified that officials of the City have solicited service for years, that the limited service provided by the City is not responsive to the needs of its residents, who are in need of service. Another official of the City of Greenbelt testified in support of the application. A third witness was the manager of a large apartment complex, who testified that bus service is needed from his area both to NASA and to Washington. The fourth witness was a businessman located on Kenilworth Avenue, who testified as to the need of employees of small businesses for bus service.

In addition, Witness de Novens appeared and testified as to the needs of NASA employees, including herself, for service between Washington and NASA Flight Center. She also discoursed on her numerous, but futile, attempts to get bus service from the protestant and other carriers.

D. C. Transit protested the application, alleging (1) there is not now, and will not be for at least one year, a need for the proposed service, but (2) if the Commission finds that the public convenience and necessity require the service sought that Transit must be accorded the authority to provide the transportation because (a) at least a portion of the route is over routes currently served by D. C. Transit, and (b) that the overall route sought is within the territory

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served by its regular routes. Stated another way, D. C. Transit states that there is no need for the service now or in the immediate future, but, if we find to the contrary and hold that a need exists, that it should be authorized and required to provide the transportation. It also makes the assertion that this is not the proper proceeding in which to so authorize and require it to perform the transportation herein concerned. D. C. Transit presented its case through one Company officer, who testified at length that his Company had previously received requests for service, but based on information it had gathered, it concluded that there was no current need for the proposed service, nor would there be for a year or eighteen months. He further stated that institution of any service at this time would be economically unsound.

After the close of the hearing and submission of the proceeding to the Commission for decision, W M A and D. C. Transit filed a motion to reopen the record for the purpose of filing a stipulation, which related to the distance between the State Department Building in Washington, D. C., and the NASA Flight Center, and D. C. Transit's rate of charge for charter operations. The motion is hereby granted and the stipulation made a part of the record in this proceeding.

(a) W M A. W M A is currently providing service under authority issued to it by predecessor commissions from its terminal at 11th Street to the intersection of East Capitol Street and Kenilworth Avenue. With one exception, all of its regular route service is operated south of the John Hanson Highway in Prince Georges County. The only regular route service north and west of the John Hanson Highway in Maryland is a route running over Landover Road to the Prince Georges County Hospital, which is located adjacent to the intersection of Landover Road and the Baltimore-Washington Parkway.

(b) D. C. Transit System. The Protestant Transit also has previously been authorized to serve that portion of the route involved herein between 11th and Pennsylvania Avenue and the intersection of East Capitol Street and Kenilworth Avenue. In addition, Transit also provides service from the latter intersection over Kenilworth Avenue to its intersection with the Maryland-D. C. line. Crossing the Maryland-D. C. boundary the proposed route continues on out Kenilworth Avenue and that portion of Kenilworth Avenue between the Maryland-D. C. line and Annapolis Road is currently devoid of all bus service. Transit also runs a regular route service over Rhode Island Avenue (U. S. Route 1) from within the District of Columbia across the Maryland-D. C. line north to its intersection with Baltimore Avenue and continuing north on Baltimore Avenue (U. S. Route 1) to its intersection with the Greenbelt Road (Maryland Route 193). Here the regular route service turns right on Greenbelt Road for approximately one-quarter mile to an intersection with Rhode Island Avenue, thence left on Rhode Island Avenue through the communities of Ark, Daniels, Hollywood, and White

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House. Transit also provides regular route service from Rhode Island Avenue eastward over Annapolis Road and Landover Road into the Prince Georges County Hospital and the community of Cheverly. In addition it renders regular route service over Edmonston Road between Annapolis Road and its intersection with Kenilworth Avenue and then along the proposed Kenilworth Avenue route for a distance of approximately one-half mile to an intersection of Kenilworth Avenue and Riverdale Road, thence right on Riverdale Road into the East Pines community.

(c) The City of Greenbelt. The City of Greenbelt presently is operating a shuttle bus service between Greenbelt and U. S. Route 1, a distance of approximately three miles. No bus service is provided between Greenbelt and the NASA Flight Center, a distance of approximately two miles. The City is anxious to eliminate this service and it would terminate concomitantly with the institution of service by any carrier.

The primary issues involve whether public convenience and necessity require the proposed service; whether the proposed authority would authorize operations over the routes of any holder of a certificate; and whether applicant is fit, willing and able to perform the proposed service.

OPINION

The Commission is of the opinion and finds that the present and future public convenience and necessity require that service be provided along the proposed route. While there is conflicting evidence as to the need for the proposed service, there is substantial evidence, indeed a preponderance of evidence, that there is an outstanding need for the service at the present time. The immediate future will undoubtedly see an expanded population growth along the proposed route and particularly in the Greenbelt-NASA Flight Center areas.

We turn now to a determination of the second issue, whether the proposed service is over the routes of a certificate holder. To facilitate the discussion we shall break the proposed route down into various segments and discuss each segment individually. That portion of the proposed route between the applicant's terminal on 11th Street, N. W. and the Maryland-D. C. line will be operated express with pick-up and discharge of passengers forbidden; therefore, it is our conclusion that this portion of the route is not subjected to the requirements of Section 4(e). The next segment of the proposed route to be considered lies along Kenilworth Avenue between the D. C. - Maryland line and Annapolis Road (Maryland Route 450). At the present time no carrier service is available on this portion of the route.

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The next portion of the proposed route lies over Kenilworth Avenue between Annapolis Road and Riverdale Road. This portion of the proposed route is approximately two miles in length. The protestant operates a parallel service over Edmonston Road beginning at Annapolis Road. Edmonston Road parallels Kenilworth Avenue for approximately one and one-half miles where the two streets converge for the remaining one-half mile to the intersection with Riverdale Road. It is over this last one-half mile that the proposed route is over the route of a certificate holder. While Transit does not yet have a "grandfather" certificate issued by this Commission, the applicant did not contest the fact that Transit was authorized to operate over this second segment. As previously stated, Transit service departs Kenilworth Avenue and turns right onto Riverdale Road for approximately one-half mile and serves the area of East Pines. The applicant, however, has agreed that the proposed route, if authorized, should be restricted to a closed door type operation over this one-half mile segment. Generally speaking, a closed door restriction is not in the public interest and can be justified only by unusual circumstances. However, in this instance we feel special circumstances are present which would justify the imposition of a closed door restriction. This is due to the fact that this particular segment lies along the outer reaches of the protestant's East Pines route. As traffic is always lighter toward the end of a route we feel the restriction would be warranted. This leaves for consideration Transit's contention that the balance of this particular segment will indirectly affect its present service because of the fact that some of the people between the parallel lines will walk to Kenilworth Avenue to board a vehicle of the applicant. However, we must reject Transit's contention that the institution of a new parallel service would deprive Transit of a material amount of traffic. There is no convincing evidence that this would develop and in any event we are of the opinion that the public should not be deprived of a new service merely because it might divert some traffic from other carriers.

The remainder of the proposed route strikes out into unserved territory and the second issue becomes nonexistent for the remainder of the proposed route. While Transit claims this area lies within the territory served by its routes, W M A puts forth the same claim. Actually, the last half of the route lies in an area between the territory served by the regular routes of the two carriers.

Thus the Commission is of the opinion and finds that, with the imposition of the closed door restriction on the one-half mile segment of Kenilworth Avenue hereinabove described, the rights of the present certificated holder will not be adversely affected. The Commission is of the further opinion and so finds that the present and future public convenience and necessity require the authorization of the proposed service, as hereinafter restricted, and that the applicant is fit, willing and able to perform the transportation requested. The Commission is of the further opinion that a certificate of public convenience and necessity should so issue.

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THEREFORE, IT IS ORDERED:

1. That Certificate of Public Convenience and Necessity No. 8 be, and it is hereby, granted to the W M A Transit Company to transport passengers for hire:

REGULAR ROUTE COMMON CARRIER OPERATION:

Passengers and their baggage, and express, mail and newspapers in the same vehicle, between Washington, D. C., and the NASA Goddard Flight Center, Prince Georges County, Maryland, serving intermediate points.

Westbound

Leave NASA via Greenbelt-Glendale Road, right on Southway to Crescent Road, right on Crescent Road to Eastway, right on Eastway to Ridge Road, left on Ridge Road to Laurel Hill Road, left on Laurel Hill Road to Hillside Road, thence left on Hillside Road to its intersection with Crescent Road, thence right on Crescent Road to Edmonston Road, left on Edmonston Road to Calvert Road, thence left on Calvert Road to Kenilworth Avenue, thence right on Kenilworth Avenue to East Capitol Street, thence right on C Street, N. E., thence right on 6th Street, N. E., thence left on C Street, N. E., thence left on 4th Street, N. E., thence right on Maryland Avenue to Constitution Avenue, thence right on Constitution Avenue to its intersection with Pennsylvania Avenue, right on Pennsylvania Avenue, thence right on 11th Street, N. W. to terminal.

Eastbound

Leave terminal via 11th Street, N. W., thence right on E Street, N. W., thence right on 3rd Street, N. W., thence left on Adams Drive, thence right on 2nd Street, S. W., thence left on Independence Avenue to its intersection with East Capitol Street, thence right on East Capitol Street, thence left on Kenilworth Avenue, thence left on Calvert Road, thence right on Edmonston Road, thence right on Crescent Road, thence left on Hillside Road, thence right on Laurel Hill Road, thence right on Ridge Road, thence right on Eastway, thence left on Crescent Road, thence left on Southway, thence left on Greenbelt-Glendale Road to NASA.

RESTRICTED, however, in that the above described authority shall be operated "closed doors" on Kenilworth Avenue between its

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intersection on the north with Riverdale Road and on the south with Edmonston Road.

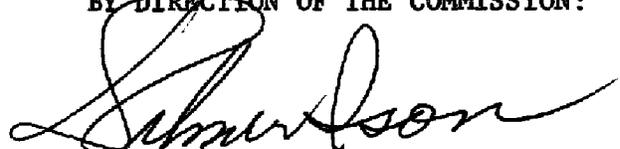
FURTHER RESTRICTED to express service between its terminal on 11th Street, N. W., Washington, D. C., and the Maryland-District of Columbia line.

2. That operations under said certificate during the non-rush hour periods, as defined by Commission regulations, may be terminated westbound, and originated eastbound, at the Maryland-District of Columbia line, until further order of the Commission.

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

4. That the authority granted herein shall become effective thirty (30) days from the service date of this order.

BY DIRECTION OF THE COMMISSION:

  
DELMER ISON  
Executive Director