

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 342

IN THE MATTER OF:

Served March 9, 1964

Application of Raymond Warrenner,)
t/a Blue Line Sightseeing Company,)
for a Certificate of Public)
Convenience and Necessity.)

Application No. 58

Docket No. 39

APPEARANCES:

WARREN WOODS AND DAVID C. VENABLE, attorneys for
applicant;

MANUEL J. DAVIS, attorney for W. V. & M. Coach
Company, Inc., protestant;

S. HARRISON KAHN, attorney for A. B. & W. Transit
Company, protestant;

JOHN R. SIMS, JR. AND C. ROBERT SARVER, attorneys for
D. C. Transit System, Inc., protestant.

Presiding officer: Russell W. Cunningham.

Pursuant to Section 4(a), Article XII, of the Washington Metropolitan Area Transit Regulation Compact (Compact), Raymond Warrenner, t/a Blue Line Sightseeing Company (Warrenner or applicant), seasonably filed an application for a "grandfather" certificate to authorize the transportation allegedly engaged in on March 22, 1961, the effective date of the Compact. The applicant seeks authority to transport passengers for hire (1) in sightseeing operations between points and places in the Washington Metropolitan Area Transit District and (2) in charter operations within the District of Columbia. The A. B. & W. Transit Company, the W. V. & M. Coach Company, and the D. C. Transit System, Inc., protested the application. Subsequently, several informal conferences were held in an attempt to resolve issues raised by the application and protests. Upon failure of the parties to agree, the Commission ordered the matter to formal hearing.

A transcript of the hearing consists of 113 pages, and 1 exhibit proffered by the applicant. The applicant and two other persons testified in behalf of the application. There was no evidence in opposition thereto except for a transcript of a hearing before the State Corporation Commission of the Commonwealth of Virginia, submitted by counsel for the A. B. & W. Transit Company, without objection.

Prior to 1958, Warrenner had transported passengers in sightseeing operations in limousines in the District of Columbia and suburban areas. In 1958, the applicant filed an application for a certificate of public convenience and necessity to authorize sightseeing operations in the Metropolitan Area before the Interstate Commerce Commission. On July 17, 1958, the Interstate Commerce Commission denied Warrenner's application and, in addition, held that he could not engage in sightseeing operations in interstate commerce in the Washington commercial zone because he did not have the requisite intrastate authority from the Commonwealth of Virginia. Subsequently, Warrenner purchased an 11-passenger bus, and in 1959, a 44-passenger bus. These buses were licensed in the District of Columbia and entitled Warrenner to engage in irregular route sightseeing and charter operations within the District of Columbia. In February, 1959, the State Corporation Commission of Virginia issued Warrenner two certificates of public convenience and necessity, authorizing him to furnish intrastate sightseeing operations between "places mentioned and over routes described" in an appendix attached thereto. The geographic area covered by those two certificates included portions of Arlington County, the City of Alexandria, and Fairfax County, Virginia.

Warrenner testified that in his opinion he was qualified to perform sightseeing operations in interstate commerce within the Washington commercial zone. He further testified, and offered an exhibit to substantiate his testimony, that he was conducting on March 22, 1961, sightseeing operations within the District of Columbia, from the District of Columbia to Virginia, from Maryland to the District of Columbia and Virginia, and from Virginia to the District of Columbia. He further testified that his two vehicles were properly licensed in the District of Columbia and Virginia, but that he had never had Maryland license nor any operating authority from the Interstate Commerce Commission. He also testified that he had, on the effective date and prior thereto, conducted charter operations within the District of Columbia.

The protestants do not contest the application insofar as it relates to charter operations within the District of Columbia, nor do they contest that Warrenner is entitled to sightseeing authority in the District of Columbia. They do contend that Warrenner was not bona fide engaged in interstate sightseeing operations. The protestants argue that while the applicant had an unlimited irregular route sightseeing authorization in the District of Columbia, his authority from the State of Virginia was extremely

limited, confining him to originating passengers only at two motels specified in the Virginia certificates, transporting them only along the routes described therein and returning to the two named motels. They argue further that this prohibits Warrenner from originating passengers any place other than the two named motels. They further contend that this is not the corresponding intrastate authority contemplated under Section 203(b)(8) of the Interstate Commerce Act which exempts carriers from the certificate requirements of said Act if they have the corresponding authority to operate over the entire length of that route or territory in each State.

On the other hand, Warrenner argues that he does qualify for the exemption in that the Virginia routes touch the District of Columbia at several points and that this permits him to "tack" the two authorities together and qualify under the exemption.

The Commission is of the opinion that it need not determine whether the two intrastate operations were "corresponding" and/or whether they could be tacked together to qualify under the Interstate Commerce Act's commercial zone exemption. Even if Warrenner's position is wrong legally, and we are not prepared to say that it is, we are of the opinion that Warrenner began the operation in good faith under "color" of authority; that his movements were open and undisguised and the transportation was rendered in his own vehicles, clearly painted, marked, and identified as belonging to him, and therefore that he was bona fide engaged in the transportation hereinafter authorized on March 22, 1961.

THEREFORE, IT IS ORDERED that Raymond Warrenner, t/a Blue Line Sightseeing Company, be, and he is hereby, granted Certificate of Public Convenience and Necessity Number 10 authorizing the transportation of passengers for hire as follows:

IRREGULAR ROUTES:

(a) Charter Operations:

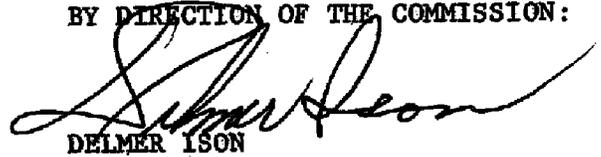
Between points and places within the District of Columbia.

(b) Special Operations:

Sightseeing or pleasure tours:

From points and places in the District of Columbia, the City of Alexandria, and Arlington County, Virginia, to points and places in the District of Columbia, the City of Alexandria, Arlington County and Mount Vernon, Fairfax County, Virginia, and return.

BY DIRECTION OF THE COMMISSION:



DELMER ISON
Executive Director