

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 815

IN THE MATTER OF:

Served May 3, 1968

Application of D. C. Transit System, Inc., for Route Authorization to Operate Mall Tour Shuttle Service.)	Application No. 432
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On May 8, 1967, D. C. Transit System, Inc., filed an application for a route authorization to permit it to operate a Mall Tour Shuttle Service.

Notice of the application was sent to all certificated regular route and charter carriers, the District of Columbia Department of Highways and Traffic, and the Secretary of the Interior.

A protest against the granting of Application No. 432 was filed by the Department of the Interior. In part, the protest alleged that the proposed transportation would, for the most part, be over park roads administered by the Department of the Interior. The Secretary claimed that no operations could be conducted over those park roads without the permission of the Secretary of the Interior, and that ". . . permission for this service has been, and is, expressly refused applicant herein."

The Interior Department's position was undoubtedly related to a jurisdictional dispute over for-hire transportation in the Mall Area which developed between the Commission and the Secretary of the Interior more than a month before the filing of this application. Litigation commenced March 31, 1967, and has most recently resulted in the issuance of certiorari by the Supreme Court of the United States to review an opinion and order of the District of Columbia Circuit Court of Appeals in WMATC v. Universal Interpretive Shuttle Corporation. The matter is still pending before the Supreme Court.

In view of this litigation, the Commission considered it best to withhold processing of these applications until the legal principles concerning them were clarified. D. C. Transit was informed of this decision and the matter remained dormant until March 29, 1968, when Transit filed a motion with the Commission, requesting that the applications be assigned for hearing. No order has ever been issued on the motion, since the Commission was engaged in reassessing its determination to withhold processing of the applications. This fact notwithstanding, 13 days later Transit filed an application for reconsideration of an alleged order denying the motion. This application for reconsideration is entirely inappropriate procedurally and will be dismissed.

Turning now to the question whether we should now begin processing of the Mall Shuttle applications now before us, we note that on May 1, 1968, the Commission was informed by a letter from Mr. George Hartzog, Jr., Director, that the National Park Service of the Department of the Interior plans to operate a government tour shuttle service in and about the Mall Area. We were also informed that the National Park Service would deny permission to any person seeking to operate a similar service on park roads.

Based upon these facts, it is the opinion of the Commission that it is still proper to withhold the administrative processing of this and similar applications until culmination of the litigation. Obviously, even if a hearing were held and the authority granted, the National Park Service would refuse applicant a permit to operate over park roads. Seemingly, then, the service would not be operated. We see little to be gained by consuming everyone's time and effort when it is clear from the beginning that until the litigation ends, the service proposed by applicant herein will not operate.

This action is, we find, in the public interest. On the one hand, service for the public will be operated on government property by a government agency. On the other hand, we and the parties to this proceeding will not have been engaged in a proceeding wherein both the evidence and outcome would be significantly influenced by the result of litigation in which no final decision has yet been reached. We are also entering an order today (Order No. 814) disposing of D. C. Transit's motion for hearing on its application for temporary authority and denying its application for temporary authority to operate a Mall Shuttle Tour.

THEREFORE, IT IS ORDERED:

1. That the motion of D. C. Transit System, Inc., to set its application for hearing be, and it is hereby, denied.

2. That the application of D. C. Transit System, Inc., for reconsideration of a non-existent order be, and it is hereby, dismissed.

BY DIRECTION OF THE COMMISSION:

Melvin E. Lewis

MELVIN E. LEWIS
Executive Director