

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 825

IN THE MATTER OF:

Served June 4, 1968

Application of Eyre's Bus )  
Service, Inc., for Certificate )  
of Public Convenience and )  
Necessity Authorizing Charter )  
and/or Special Operations. )

Application No. 460

Docket No. 161

APPEARANCES:

BRUCE E. MITCHELL, appearing on behalf of the applicant,  
Eyre's Bus Service

MANUEL J. DAVIS, appearing on behalf of protestant,  
D. C. Transit System, Inc.

S. HARRISON KAHN, appearing on behalf of protestants,  
The Gray Line, Inc., and Dawson Charter Service, Inc.

By Application No. 460, filed October 23, 1967, Eyre's Bus Service, Inc., seeks a certificate of public convenience and necessity to operate motor vehicles for the transportation of passengers over irregular routes in charter and/or special operations as follows:

Beginning and ending at Damascus, Md., and points in Montgomery County, Md., within 15 miles of Damascus, Md., except Rockville, Md., and extending to points in the Washington Metropolitan Area Transit District as defined in Article I of the Washington Metropolitan Area Transit Regulation Compact.

The matter was set for hearing before an examiner. Notice of the application and hearing was given as prescribed by the Commission. Hearings were held on February 19 and 20, 1968.

The Gray Line, Inc., Dawson Charter Service, Inc., and D. C. Transit System, Inc., oppose the application.

Applicant is a common carrier of passengers specializing in school bus, special, and charter operations. It has operated continuously for approximately 21 years primarily as a sole proprietorship; in 1967 the applicant was incorporated under the laws of the State of Maryland. Applicant received Interstate Commerce Commission operating authority in 1957 and pursuant to its lead certificate MC-116212 and various subs thereto has actively and overtly solicited and conducted business largely duplicative of the authority sought herein. However, when applicant became cognizant of this Commission and the suspension of the ICC authority, it ceased such operations and filed the instant application. To some degree, applicant has continued to conduct these operations by utilizing school bus vehicles in exempt service. The bulk of applicant's operation pertaining hereto consists of serving regular customers such as church groups, schools, bands, and travel groups. Working closely in conjunction with these groups, applicant assists in arranging itineraries and coordinating general matters such as meals, accommodations, and the procuring of tickets. Quite frequently, applicant asserts, it is contacted by groups too small to warrant the hiring of a vehicle on a general charter basis. In those cases applicant intends to solicit additional passengers to conduct special operations. Applicant operates a total of 16 vehicles: 10 school buses, 5 air-conditioned charter coaches, 1 regular coach. These vehicles range in capacity from 30 to 66.

Applicant's balance sheet dated January 31, 1968, indicates the following: total assets \$76,215.58; total liabilities \$45,313.82; total net worth, \$30,901.76. An income statement submitted by the applicant for the months of May 1, 1967 to January 31, 1968 indicates the following: income, \$125,956.58; operating cost and expenses, \$101,054.82; and a net profit of \$24,901.76. A list of charter trips conducted by applicant from April 23, 1959 through July 14, 1967 indicates that applicant originated approximately 42 charter trips in or near Damascus, Maryland; five in or near Laytonsville; five in or near Gaithersburg; two in or near Brookville; one in Lewisdale; one in Popular Grove. Destinations on these

included such places as Washington, D. C.; Beltsville, White Oaks, David Taylor Memorial Model Basin, Suitland, Sandy Springs, Takoma Park, Cabin John, Glen Echo, Maryland; Leesburg, Arlington, Mt. Vernon, and Falls Church, Virginia.

Twenty-four witnesses appeared in support of the application: 15 testified and the testimony of others was agreed to by stipulation as being similar to that given. These witnesses appeared herein on behalf of various groups -- Damascus Rotary Club, Montgomery Methodist Church, Four H, Damascus High School, Popular Grove Baptist Church, Farm Bureau, Laytonsville Lions Club, Damascus Travel Club, Gaithersburg-Washington Girl Majorettes, Bethesda Methodist Church, Boosters Club of Damascus High School, St. Pauls Methodist Church, Chesapeake and Potomac Iris Society, St. Pauls Church Women's Society, Herbert Hoover Republican Club, Pleasant Plains of Damascus DAR Chapter, and the Community Garden Club. Most, if not all, of these witnesses have utilized the applicant's services -- some for a considerable period of years -- and plan to do so in the future. Generally, such trips would include excursions to the D. C. area to various places of interest or events such as ball games, flower shows, festivals, and circuses. Specific destinations mentioned by these witnesses are basically similar to the destinations noted in the preceding paragraph.

All the witnesses stated that they found the applicant's service to be excellent, its cost reasonable, and its vehicles clean and comfortable. Of considerable importance to numerous groups was the assistance which applicant provides in arranging various incidental itinerary matters. Lastly, all witnesses stressed a preference for a local carrier. Several of the groups had utilized the service of protestant D. C. Transit and the general consensus was that it was unsatisfactory -- i.e., unclean vehicles and excessive cost. In fact, several witnesses said that the charges by D. C. Transit and Gray Line completely ruled out the utilization of those carriers. Most witnesses also expressed a personal interest in and a willingness to utilize the proposed special operations service.

The Gray Line, Inc., of Washington, D. C., maintaining a terminal at 1010 I Street and a garage in N. E. Washington, has been conducting charter operations in the Washington area on a continuous basis since 1920. Protestant holds ICC authority and authority from this Commission. The latter authorizes it

to engage in special and charter operations from points in Montgomery County to points in the Washington Metropolitan Area. Specifically, it operates 13 daily sightseeing tours in the metropolitan area. These tours vary in time length and include stops at such places as the Capitol, Jefferson Memorial, and Washington Monument. In connection with its regular tours, it makes pickups at its terminal as well as at several motels/hotels. The Gray Line advertises its charter service in the phone book and states that it sends representatives to meet with groups in order to sell and promote its charter service. Protestant operates 19 General Motors buses and asserts that it has three more on order. Three of Gray Line's vehicles are 41-passenger buses and the rest accommodate 49 passengers; with the exception of seven, they are completely air conditioned and all are equipped with public address systems.

Protestant Dawson Charter Service, Inc., of Sandy Springs, Maryland, while conducting charter operations, basically performs school bus operations. It holds authority from this Commission authorizing it to conduct charter operations, round trip, from points on, north and west of the Capital Beltway (Interstate Highway 495) within Montgomery County to points within the counties of Montgomery and Prince George's, Maryland, and return. It operates 10 vehicles consisting of 6 school buses and 4 charter buses and maintains a terminal at Sandy Springs, Maryland. Applicant presently conducts considerable operations bringing school children in school buses into the District of Columbia and asserts that a grant of the authority sought herein would have a detrimental effect on its business.

Protestant D. C. Transit holds ICC authority and, as pertinent herein, operates pursuant to Certificate No. 5 issued by this Commission which authorizes it to operate charter and special operations from points in Montgomery County to points in the Metropolitan District. D. C. Transit asserts that approximately 4% of its charter operations originate within Montgomery County and this amounts to \$68,000 in annual revenue. D. C. Transit showed that it has originated numerous trips within the 15 mile radius of Damascus, Maryland, for example: Ashton, Olney, Brighton, Brookville, Norville, Norbrook, Brookmanor Country Club, Washington Grove, Gaithersburg, Washington Country Club, Shady Grove Music Fair, Bureau of Standards, Lakewood

Country Club, Sunshine, Laytonsville, Montgomery County Air Park, Germantown, Atomic Energy Commission, and Clarksburg. D. C. Transit advertises in the telephone book and distributes pamphlets by mail to groups in the area. It has never originated special operations in Damascus. Sightseeing trips are originated at a few motels and at its main terminal at New York Avenue. If a person living within the origin area of this application wants to utilize D. C. Transit's sightseeing bus, they can board at the Washingtonian Motel, buy a ticket under the special operations, and be taken to the terminal at New York Avenue where sightseeing arrangements could be made. D. C. Transit garages its equipment at Wisconsin Avenue and Harrison Street, N. W. (Western Garage), 14th and Decatur Streets, N. W. (Northern Garage), Half and M Streets, S. E. (Southeastern Garage), and 26th and Bladensburg Road, N.E. (Bladensburg Garage). Four of the charter type coaches are maintained at Western Garage and five are maintained at Northern Garage. In addition, D. C. Transit also operates this type of service with regular-route type buses, which are housed at all of its garages.

#### DISCUSSION AND CONCLUSION

In our opinion, a clear need for the proposed transportation has been demonstrated to the extent indicated below. The record contains a substantial amount of discussion pertaining to the applicant's personalized service. Too frequently an alleged need for such a service is but a thin veil for a weak case. Obviously, we must carefully scrutinize such allegations so that an expressed desire for a personal service does not become a gimmick for the mere preference of one carrier over another. However, on the record before us we are certain that this is not the case.

Numerous organizations supporting the instant application are small, local groups or clubs which all too often have little, if any, contact with or working knowledge of the arrangements required to transport groups of people. Therefore, the type of service offered by applicant would be most appropriate. Moreover, there are obvious benefits which flow from having a local carrier available, one of which is the ease and nominal expense incurred in getting in touch with the carrier.

As indicated, the applicant conducted the operation for which authority is sought herein for a considerable period of

time, apparently laboring under the erroneous impression that its pertinent Interstate Commerce Commission certificates were still in effect. Upon receipt of the correct information, the applicant discontinued such operations and filed the instant application; consequently, it is clear that applicant's prior unauthorized operations do not constitute a willful violation of the Compact. Therefore, in considering the situation at hand in connection with the applicant's past non-willful unlawful operations, we can only conclude that this tends to establish a need for the service and reinforce our findings.

In considering whether the proposed transportation is or will be required by the public convenience and necessity, one criterion to be considered by the Commission is the adequacy of existing service in the territory sought to be served by the application. The protestants contend that they have sufficient equipment and operators, that they advertise their services in the telephone directories, and that they are ready, willing and able to render any transportation needs of the residents of the origin territory.

However, we find that Gray Line and D. C. Transit have done relatively little if anything to encourage and generate business within the origin area sought herein. The evidence of record indicates that while D. C. Transit is handling some traffic out of or near the origin area, Gray Line is doing very little business beyond the Silver Spring sector of Montgomery County. In both cases, the deadhead mileage from the carriers' terminals the origin area and back again would nearly equal the actual trip mileage. This deadhead mileage is expensive. In fact, the evidence of record indicates instances in which the prices of these carriers would be just too high; as a result of this price embargo, the proposed trips would be cancelled or other means of transportation would be utilized. Besides the general dissatisfaction with cost, several supporting witnesses testified to unsatisfactory experiences with D. C. Transit.

The origin territory sought herein is fairly small and the applicant has been handling most of the traffic in the conduct of its prior non-willful operations or in an exempt manner by utilizing school buses. This being the case, it is difficult to see how most of the protestants would be affected by a grant of the authority sought. On the other hand,

protestant Dawson possesses the equipment and requisite authority to serve part of the destination area requested. There is no evidence of record to indicate that the Dawson service could not adequately meet the need as indicated herein to the extent of its authority. Quite to the contrary, the basic features of protestant Dawson's service are similar to those of the applicant and those desired by the supporting witnesses.

We find that the existing service, excluding that rendered by protestant Dawson, is inadequate to serve the transportation needs of the origin territory involved herein. We further find that protestant Dawson's service is adequate. Lastly, we find and conclude that the transportation proposed, except to points and places in Montgomery and Prince George's Counties, Maryland, is and will be required by the public convenience and necessity. Accordingly, the application will be denied to the extent that protestant Dawson holds authority from this Commission.

**THEREFORE, IT IS ORDERED:**

1. That Eyre's Bus Service, Inc., be, and it is hereby, granted a certificate of public convenience and necessity to engage in the following transportation:

**IRREGULAR ROUTE,**

**A. Charter Operations:**

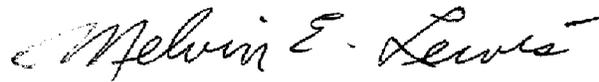
From Damascus, Md., and points in Montgomery County, Md., within 15 miles of Damascus, Md., except Rockville, Md., to points in the District of Columbia and Fairfax and Arlington Counties, and the Cities of Alexandria and Fairfax, Va., and return, round-trip only.

**B. Special Operations:**

From Damascus, Md., and points in Montgomery County, Md., within 15 miles of Damascus, Md., except Rockville, Md., to points in Montgomery and Prince George's Counties, Md., the District of Columbia, and Fairfax and Arlington Counties, and the Cities of Alexandria and Fairfax, Va., and return, round-trip only.

2. That in all other respects, the application of Eyre's Bus Service, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in cursive script that reads "Melvin E. Lewis". The signature is written in dark ink and is positioned above the typed name.

MELVIN E. LEWIS  
Executive Director