

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1299

IN THE MATTER OF:

Application of WASHINGTON, VIRGINIA)
AND MARYLAND COACH COMPANY, INC.,)
to Amend Certificate of Public Con-)
venience and Necessity No. 4-A.)

Served January 17, 1974

Application No. 808

Docket No. 251

By Application No. 808, dated July 20, 1973, Washington, Virginia and Maryland Coach Company, Inc., (WV&M), a wholly owned subsidiary of D. C. Transit System, Inc., (Transit), seeks to amend Certificate of Public Convenience and Necessity No. 4-A, 1/ issued on June 29, 1973, and fully described in the Appendix attached to Order No. 1261, served the same date. Primarily, approval of the amendment would grant WV&M the additional authority to conduct individually ticketed sightseeing service between hotels and motels in the territory served by the former regular routes, on the one hand, and on the other, points in the District of Columbia.

Pursuant to Order No. 1274, served August 21, 1973, and Order No. 1280, served November 1, 1973, the subject application filed by WV&M was assigned for hearing that commenced September 25, 1973, and continued November 20, 1973. The continuation of the hearing was ordered for the special purpose of receiving evidence upon which the Commission would be able to determine the extent to which WV&M, as a separate entity apart from Transit, would perform individually ticketed sightseeing operations, and to determine whether WV&M would be fit, willing, and able to perform the individually ticketed sightseeing service described in the proposed amendment.

Under Title II, Article XII, Section 4(g) of the Compact, the Commission may, in its discretion, approve the application of a certificated

1/ By Order No. 1273, served August 16, 1973, Transit was granted temporary operating authority to conduct individually ticketed sightseeing services over the irregular routes authorized in Certificate No. 4-A and WV&M was authorized to suspend individually ticketed sightseeing services over the irregular routes authorized in Certificate No. 4-A. Also, see Order No. 1297, served January 4, 1974.

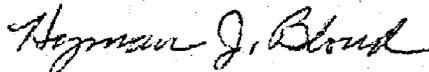
carrier to amend, in whole or in part, its certificate of public convenience and necessity. This provision of the Compact contemplates that an amendment to a certificate of public convenience and necessity will be authorized only when the certificated carrier has shown that public convenience and necessity would be served by the proposed change, extension, or deletion of operating authority.

WV&M has requested an amendment of Certificate No. 4-A so as to authorize not only service to any point served on its former regular routes, but also to any hotel or motel in the territory served by such former regular routes. WV&M contends that this change in the certificate is merely a "clarification" of its certificate, not a formal amendment. As justification for the request to amend, WV&M asserted a supposed "implied right" to deviate from its former regular routes in order to serve the entrances of hotels and motels. We did not agree with WV&M's view of an "implied right" to deviate, particularly when the language it seeks to add to its certificate authority speaks of hotels and motels in the territory served by such former regular routes, whereas its certificate speaks of points on the holder's former regular routes. See Order No. 1274, served August 21, 1973. Hence, the requested amendment could not be approved on the basis of an "implied right" granted to the carrier as an incidence of its certificate authority. Accordingly, WV&M was required to present evidence at a hearing upon which the Commission could base a finding that the proposed change would serve the public interest.

WV&M relied entirely upon the testimony of the general manager of sales and marketing of WV&M, who serves Transit in the same capacity. The witness conceded, and the record otherwise establishes, that WV&M's prospective operations would constitute merely "feeder service" in conjunction with the individually ticketed sightseeing service to be rendered to the public by Transit. The function of WV&M would be to pick up passengers, principally at hotels and motels in the described area of Virginia, for delivery to the downtown terminal of Transit which would perform the sightseeing service. Upon completion of the sightseeing tours, WV&M would deliver the Virginia passengers to their hotels or motels. There is no evidence indicating that WV&M would perform the actual sightseeing, except on rare occasions as an agent for Transit. Further, the applicant did not present evidence of public convenience and necessity in the form of testimony by witnesses representing operators of the motels and hotels within the affected area, or by members of the sightseeing public. The record, in no manner, supports favorable consideration of the application to amend the outstanding certificate of WV&M. We find that WV&M has failed to establish that the public convenience and necessity require approval of the subject application to amend Certificate No. 4-A.

THEREFORE, IT IS ORDERED, that Application No. 808, filed by Washington, Virginia and Maryland Coach Company, Inc., to amend its Certificate of Public Convenience and Necessity No. 4-A, be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION

A handwritten signature in cursive script that reads "Hyman J. Blond".

HYMAN J. BLOND
Executive Director