

BEFORE THE
WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1336

IN THE MATTER OF:

Application of EXECUTIVE LIMOUSINE)	Served June 21, 1974
SERVICE, INC., for a Certificate of)	
Public Convenience and Necessity to)	Application No. 805
Operate Between Dulles International)	
Airport and Washington, D. C.)	Docket No. 262

APPEARANCES:

MAXWELL A. HOWELL, Attorney for Executive Limousine Service, Inc., applicant.

L. C. MAJOR, JR., Attorney for Greyhound Airport Service, Inc., protestant.

DONALD J. BALSLEY, JR., Counsel for Washington Metropolitan Area Transit Commission.

BY THE COMMISSION: Chairman Robert L. Sullivan, Commissioner Preston C. Shannon, and Commissioner William R. Stratton

By application No. 805, dated June 29, 1973, as amended, Executive Limousine Service, Inc., (Executive) seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport passengers and their baggage between Dulles International Airport (Dulles), Chantilly, Virginia, on the one hand, and on the other, the Burlington Hotel, Vermont Avenue at Thomas Circle, N. W., Washington, D. C., and between Dulles, on the one hand, and on the other, the Quality Inn, 415 New Jersey Avenue, N. W., and the L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, S. W., each in Washington, D. C. ^{1/} Executive has filed, as part of the amended application, a tariff setting forth a daily schedule and one-way fares per passenger.

^{1/} The Commission's Order No. 1292, served December 21, 1973, granted Executive temporary authority to operate a limousine service for passengers and their baggage between Dulles, on the one hand, and on the other, the Burlington Hotel, and between Dulles, on the one hand, and on the other, the Quality Inn-Capitol Hill, with an intermediate stop at L'Enfant Plaza Hotel. Such temporary authorization became effective December 26, 1973, and will be effective through June 23, 1974.

Pursuant to Order No. 1312, served March 19, 1974, a hearing was held April 23, 1974, to develop an appropriate record. Greyhound Airport Service, Inc., (Greyhound) appeared at the hearing as a protestant. Greyhound holds Certificate of Public Convenience and Necessity No. 7, authorizing, as pertinent to this proceeding, the performance of special operations between Dulles, on the one hand, and on the other, points in the Metropolitan District.

The findings to be made by the Commission, after hearing, with respect to applications for certificates of public convenience and necessity are set forth in Title II, Article XII, Section 4(b) of the Compact. Essentially, the Commission must make two separate findings. First, the applicant must be "fit, willing and able" to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations, and requirements of the Commission thereunder. Second, the proposed transportation "must be or will be required" by the public convenience and necessity. In addition, approval by the Commission of the proposed tariff must be based on a finding that the tariff is just, reasonable, and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. See Compact, Title II, Article XII, Section 6(a)(2).

For the purpose of clarity of discussion, the proposed certificate and the proposed tariff shall be considered under separate headings.

I. CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

Executive proposes to perform limousine service in 14-passenger vehicles pursuant to a predetermined schedule between fixed terminal points. The service would be performed over separate irregular routes: (1) between Dulles and the Burlington Hotel, and (2) between Dulles and the Quality Inn-Capitol Hill with an intermediate scheduled stop at the L'Enfant Plaza Hotel.

A. Fitness

At the hearing Greyhound challenged the fitness of Executive submitting testimony by Greyhound's operations manager, and examining the president of Executive. The general tenor of that testimony indicates that Executive transported passengers from Dulles to the Mayflower Hotel, 1127 Connecticut Avenue, N. W., Washington, D. C., on several occasions during January and February 1974. The record is clear that Executive did not hold appropriate authority to serve the Mayflower Hotel. Therefore, the transportation of passengers from Dulles to the Mayflower Hotel was not in conformance with the provisions of the Compact and the regulations of the Commission thereunder.

The apparent breach of its authority places a doubt upon Executive's fitness to conduct operations on a permanent basis. The burden of establishing fitness properly to perform a proposed transportation service rests upon the applicant. The determination as to whether this burden has been met must be made by the Commission upon full consideration of the nature and extent of

violations, that may have occurred, and any mitigating circumstances shown to have existed. Thereupon, the Commission may determine (a) whether the applicant's conduct represents a flagrant and persistent disregard of the provisions of the Compact, (b) whether the applicant has made a sincere effort to correct past mistakes, and (c) whether applicant is willing and able to comport itself properly in the future.

Executive has stated on the record that the infrequent operations from Dulles to the Mayflower Hotel were the result of various factors not entirely within its control. During the early portion of the temporary authority operations, some drivers operated beyond the scope of the temporary authority. In at least one instance, the passengers traveling in the limousine had become disorderly in their demand to be delivered to the Mayflower. In an attempt to assure reasonably comfortable transportation for all passengers, Executive's driver elected to transport the unruly passengers to the Mayflower as demanded.

While the Commission does not condone the violation, there is no indication in the record of a continuing service operated by Executive between Dulles and the Mayflower. The Commission is satisfied that Executive has not been guilty of a flagrant and persistent disregard of the Compact's provisions, that it has sincerely tried to correct past errors in judgment, and that it is willing and able to properly operate in the future and to carefully observe the Commission's rules and regulations. The record supports the finding that Executive is fit, willing and able to perform the proposed transportation.

B. Burlington Hotel Operations

Executive submitted traffic exhibits indicating the number of passengers transported by it between Dulles and the Burlington Hotel pursuant to its temporary authority grant. The exhibits for the Burlington Hotel traffic reflect the number of passengers who paid full fare and the number of passengers who paid less than full fare. The following table sets forth the number of passengers carried each month from Dulles to the Burlington Hotel and to Dulles from the Burlington Hotel.

TABLE I

BURLINGTON HOTEL

<u>Month</u>	<u>From Dulles</u>	<u>To Dulles</u>	
		<u>Full Fare</u>	<u>Other</u>
January 1974*	68	101	41
February 1974	114	75	143
March 1974	160	101	187
April 1974*	<u>129</u>	<u>47</u>	<u>141</u>
Total	<u>471</u>	<u>324</u>	<u>512</u>

Note: "Other" refers to airline crew members who pay less than full fare as provided in Executive's current tariff.

* The month of January 1974 covers only the days between January 7, 1974, and January 31, 1974, and the month of April 1974 covers only the days from April 1, 1974, to April 26, 1974, inclusive.

Executive submits that the traffic exhibits reflect the demand for limousine transportation service between Dulles and the Burlington Hotel. Greyhound contends that the traffic exhibits were not accurate at least to the extent that some of the passengers recorded thereon were not in fact transported to the Burlington Hotel, but were transported to the Mayflower Hotel. Greyhound further alleges that the exhibits are not valid representations of the demand for transportation service from Dulles to the Burlington Hotel because Executive has held itself out to the public as providing service to downtown Washington, D. C. According to Greyhound, Executive's solicitation of passengers at Dulles was misleading and the transportation service that Executive could provide was misrepresented to the general public. The Commission is of the opinion that the record amply supports a finding that the public convenience and necessity requires the provision of transportation service between Dulles and the Burlington Hotel.

Greyhound argues that approval of Executive's application with respect to the Burlington Hotel would be contrary to the public interest. This contention is based on Greyhound's belief that the presence of two carriers providing competing services in the same area would have a detrimental effect. Greyhound submits that there is not sufficient traffic to support more than one carrier, and that, consequently, the level of service to the public would deteriorate.

Greyhound currently provides motor coach service between Dulles and the Statler Hilton Hotel, 16th and K Streets, N. W., Washington, D. C. The Burlington Hotel is located at Vermont Avenue and Thomas Circle, N. W., Washington, D. C., about four blocks from the Statler Hilton Hotel. Greyhound

contends that the members of the traveling public using either Greyhound's motor coach service or Executive's limousine service usually are not guests at either hotel. It is Greyhound's belief that most of the persons using its service or the service of Executive merely use either the Statler Hilton Hotel or the Burlington Hotel as a downtown Washington, D. C., point to or from which to engage transportation service from or to Dulles.

Greyhound submits that the passengers traveling to and from Dulles constitute a heterogeneous group which is relatively fixed in number. Greyhound contends that a portion of this group would be diverted from Greyhound to Executive, should the certificate application be granted. Greyhound further argues that a diversion of its present passengers would result in a decline in its gross revenues. In turn, this allegedly would cause a deterioration of Greyhound's service to the public.

The record contains Greyhound's statement that 90 percent of the passengers using Executive's service during the period January 1974 to April 1974 as summarized in Table I hereinbefore, would have traveled on Greyhound's motor coach between the Statler Hilton Hotel and Dulles. The record contains no evidence of the number of passengers transported between Dulles and the Statler Hilton Hotel by Greyhound either before or during the period of Executive's operations between Dulles and the Burlington Hotel. The record presents no satisfactory basis for finding that Greyhound has been or would be adversely affected by the operations of Executive.

The Commission is of the opinion that approval of Executive's application to conduct limousine service between Dulles and the Burlington Hotel would not result in harmful or destructive competition. Furthermore, the Commission finds on the record herein that approval of this portion of Executive's application is required by the public convenience and necessity.

C. Quality Inn-Capitol Hill and L'Enfant Plaza Hotel Operations

Executive has submitted traffic exhibits indicating the number of passengers transported between Dulles and the Quality Inn-Capitol Hill and L'Enfant Plaza Hotel pursuant to the temporary authority granted in Order No. 1292. The following table sets forth the number of passengers carried each month by Executive from Dulles to either the Quality Inn-Capitol Hill or L'Enfant Plaza Hotel and to Dulles from either the Quality Inn-Capitol Hill or L'Enfant Plaza Hotel.

TABLE II

Month	QUALITY INN-CAPITOL HILL		L'ENFANT PLAZA HOTEL	
	From Dulles	To Dulles	From Dulles	To Dulles
January 1974*	25	26	2	17
February 1974	35	48	35	64
March 1974	47	47	111	127
April 1974*	<u>30</u>	<u>53</u>	<u>76</u>	<u>64</u>
Total	<u>137</u>	<u>174</u>	<u>224</u>	<u>272</u>

* The month of January 1974 covers only the days between January 7, 1974, and January 31, 1974, and the month of April 1974 covers only the days from April 1, 1974, to April 26, 1974, inclusive.

Greyhound offered no contradictory evidence, and otherwise did not question these counts. The record supports a finding that the public convenience and necessity requires the provision of limousine service between Dulles and the Quality Inn-Capitol Hill with an intermediate stop at the L'Enfant Plaza Hotel. The Commission further finds that approval of this part of Executive's application is required by the public convenience and necessity.

II. TARIFF

Executive seeks approval of a tariff naming fares and rules governing the requested transportation authority. The proposed tariff ^{2/} was submitted with the application and was amended at the hearing to provide the following daily schedule and one-way fares per passenger.

TABLE III

SCHEDULE AND FARES

<u>Origin</u>	<u>Time (P.M.)</u>	<u>Destination</u>	<u>Time (P.M.)</u>	<u>Fare</u>
Quality Inn-Capitol Hill	3:50	Dulles	4:40	\$4.00
L'Enfant Plaza Hotel	4:00	Dulles	4:40	\$4.00
Burlington Hotel	3:30	Dulles	4:15	\$4.00
Dulles	5:15	Burlington Hotel	6:00	\$4.00
Dulles	5:30	L'Enfant Plaza Hotel	6:15	\$4.00
Dulles	5:30	Quality Inn-Capitol Hill	6:25	\$4.00

^{2/} The proposed tariff properly should bear the heading "WMATC Tariff No. 2 Cancels WMATC Tariff No. 1".

Executive submitted a statement of the revenues and expenses resulting from the temporary operations of limousine service performed pursuant to Order No. 1292. The revenues were calculated on the basis of a \$4 fare for a passenger other than an airline or airport employee; and \$2.50 for an airline or airport employee traveling in the limousine service. The fare for the airline or airport employee is proposed to continue at the rate of 5/8 of the proposed full fare of \$4. As shown, Executive's revenues derived from the limousine service for the period January 7, 1974, through March 31, 1974, amounted to \$5,740.

The expenses resulting from the provision of the limousine service during the period January 7, 1974, through March 31, 1974, were estimated by Executive. The estimate was based on an allocation of the expenses of Executive's entire limousine and other transportation operations, as follows:

TABLE IV

EXPENSES

ENTIRE EXECUTIVE OPERATIONS

January 1, 1974, Through March 31, 1974

DIRECT COSTS:		
Concession Fees (FAA)	\$ 250	
Gas, Oil & Maintenance	4,383	
Gross Payroll	<u>8,739</u>	\$13,122
INDIRECT COSTS:		
Insurance	\$1,563	
Rent	2,400	
Telephone & Utilities	898	
Lease Rentals	1,350	
Miscellaneous	<u>312</u>	<u>6,523</u>
TOTAL		<u>\$19,645</u>

Executive submitted that for the period January 7, 1974, through March 31, 1974, it operated 10,080 miles in performing limousine service and that the entire Executive operation for the period January 1, 1974, through March 31, 1974, involved 38,740 total operating miles. Thus, limousine service mileage represents 26 percent of the total mileage. This percentage was used to allocate the entire expense. On that basis, Executive submitted that the operating expense resulting solely from the limousine operation was \$5,107.

In order to project revenues and expenses for the period April 1974 through December 1974, Executive used as a statistical basis the reports of the Federal Aviation Administration, National Capital Airports, for the Dulles International Airport activity during the years 1973 and 1972. The projections by Executive involved the use of the actual number of passengers, excluding airline crews, enplaned and deplaned at Dulles. Executive determined the actual percentage change of the number of passengers from month to month. This percentage increase or decrease was used to project the passengers expected to be carried in each of the months between April 1974 and December 1974.

The actual number of passengers transported by Executive, the actual revenues from passengers other than airport or airline employees, and the actual expenses incurred in such operations during March 1974 were used as the historical basis. Table V sets forth the actual results in March 1974 and the monthly projections submitted by Executive.

TABLE V
EXECUTIVE'S PROJECTION OF
PASSENGERS, REVENUES AND EXPENSES

<u>Month 1974</u>	<u>Passengers</u>	<u>Revenues</u>	<u>Expenses</u>
March	593	\$2,372	\$1,702
April	643	2,572	1,845
May	678	2,712	1,946
June	734	2,936	2,106
July	702	2,808	2,013
August	760	3,040	2,178
September	642	2,568	1,841
October	670	2,680	1,920
November	605	2,420	1,901
December	596	2,384	1,711

Executive further projected that an average of 165 airline or airport employees would use the limousine service each month. Then Executive determined the projected revenue and expenses for the year 1974 by totaling the actual results during the period January 7, 1974, through March 31, 1974, and the projected results for the period April 1974 through December 1974. These calculations indicate that Executive would realize revenues of \$33,571, incur expenses of \$22,568, and produce \$11,003 in net operating income for the year 1974. These results would yield an operating ratio of 67.22 percent.

Obviously, the projection of future revenues and expenses is a difficult task. The efforts of Executive to use some reasonable basis for correlation of future revenues and expenses to airport activity in the past have been examined. The record contains no support for the underlying projections of changes in passenger activity at Dulles from month to month. The Commission believes that Executive's projection of revenues and expenses on the basis of the projection of future passenger traffic is not properly premised. Accordingly, the Commission shall not accept these projections in determining the proper fare structure.

The record contains the historical revenues and expenses for the period January 1, 1974, through March 31, 1974. The Commission shall use this historical period as a basis for projecting the revenues and expenses. The only information of record of Executive's past operations reflects the results of the temporary authority operations. That information is available and should be used with full awareness that temporary authority operations do not create a presumption that corresponding permanent authority is justified. See Compact, Title II, Article XII, Section 4(d)(3).

The Commission accepts the cost allocation method submitted by Executive in determining the cost of performing the proposed limousine carrier operation. However, the direct cost for concession fees paid to the Federal Aviation Administration (FAA) will not be included in determining revenue deductions. Further, a rate of 50 percent shall be used to project the corporate tax liability of Executive. Table VI, which follows, sets forth the Commission's projected expenses for Executive for the year ending December 31, 1974. The projected amount for each expense was determined by multiplying the actual expense of Executive during the period January 1, 1974, through March 31, 1974, by 26 percent to determine the amount allocable to the limousine service and then multiplying this product by four to estimate the annual amount.

TABLE VI

EXECUTIVE'S EXPENSES
For Year Ending December 31, 1974
(as projected by the Commission)

Gas, Oil & Maintenance	\$ 4,560
Gross Payroll	9,088
Insurance	1,624
Rent	2,496
Telephone & Utilities	932
Lease Rentals	1,404
Miscellaneous	<u>324</u>
TOTAL	<u>\$20,428</u>

The Commission's development of the revenue projections for the year ending December 31, 1974, are founded on the historical data furnished by Executive. The records submitted, as summarized in Tables I and II herein indicate that 1,203 passengers and 371 airline employees were carried during the period January 1, 1974, through March 31, 1974. The revenue generated by these operations during that period was \$5,740. The projected annual revenue is \$22,960.

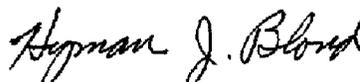
On the basis of projected annual expenses in the amount of \$20,428 and projected annual revenues in the amount of \$22,960, the operating income before taxes would be \$2,532. Applying a rate of 50 percent for taxes, the amount of tax liability would be \$1,266. Thus, the net operating income would be \$1,266. The operating ratio would be equivalent to 94.49 percent, and the rate of return about 5.51 percent. Accordingly, the Commission concludes that the proposed fares are just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

The Commission has considered the other matters pressed by the parties but finds they do not warrant action contrary to that which is now directed.

THEREFORE, IT IS ORDERED:

1. That Executive Limousine Service, Inc., be, and it is hereby, issued Certificate of Public Convenience and Necessity No. 18 as attached hereto and made a part hereof.
2. That the Tariff filed as part of Application No. 805 of Executive Limousine Service, Inc., be, and it is hereby, approved.
3. That Executive Limousine Service, Inc., be, and it is hereby, directed to file "WMATC Tariff No. 2 Cancels WMATC Tariff No. 1" in accordance with the authority granted herein, such tariff to be effective as of the date it is filed without further order of the Commission.

BY DIRECTION OF THE COMMISSION:


HYMAN J. BLOND
Executive Director

STRATTON, Commissioner, concurs.

Concurring opinion will be served as Order No. 1336-A.

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 18

EXECUTIVE LIMOUSINE SERVICE, INC.
ARLINGTON, VIRGINIA

By Order No. 1336 of the Washington Metropolitan Area Transit Commission issued June 21, 1974;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 1336;

THEREFORE, IT IS ORDERED, that the said carrier be, and it is hereby, granted this certificate of public convenience and necessity as evidence of the authority of the holder to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions and limitations as are now, or may hereafter be attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

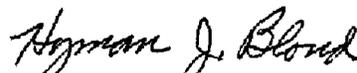
IRREGULAR ROUTES:

SPECIAL OPERATIONS:

- (1) Between the Dulles International Airport, Chantilly, Virginia, on the one hand, and on the other, the Burlington Hotel, Vermont Avenue at Thomas Circle, N. W., Washington, D. C.
- (2) Between the Dulles International Airport, Chantilly, Virginia on the one hand, and on the other, the Quality Inn-Capitol Hill, 415 New Jersey Avenue, N. W., Washington, D. C., with an intermediate stop at L'Enfant Plaza Hotel, 480 L'Enfant Plaza East, S. W., Washington, D. C.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous and adequate service to the public in pursuance of the authority granted herein, and that failure so to do shall constitute sufficient grounds for suspension, change or revocation of the certificate.

BY DIRECTION OF THE COMMISSION:


HYMAN J. BLOND
Executive Director