

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1364

IN THE MATTER OF:

Application of EXECUTIVE)	Served	October 18, 1974
LIMOUSINE SERVICE, INC.)		
for Temporary Authority)	Application No. 823	
)		
Application of EXECUTIVE)	Application No. 824	
LIMOUSINE SERVICE, INC.,)		
for Certificate of Public)	Docket No. 272	
Convenience and Necessity)		

By applications, filed December 6, 1973, Executive Limousine Service, Inc. (Executive) seeks temporary authority pursuant to Title II, Article XII, Section 4(d)(3) of the Compact, and a certificate of public convenience and necessity pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport air line crews and employees, between Dulles International Airport (Dulles) or Washington National Airport (National) on the one hand, and on the other, points within the Metropolitan District.

The Metropolitan District embraces the District of Columbia, the cities of Alexandria and Falls Church, the counties of Arlington and Fairfax, and political subdivisions of the State of Virginia located within those counties and that portion of Loudoun County, Virginia, occupied by the Dulles International Airport and the counties of Montgomery and Prince George's in the State of Maryland and political subdivisions of the State of Maryland located within said counties, and all other cities now or hereafter existing in Maryland or Virginia within the geographic area bounded by the outer boundaries of the combined area of said counties, cities and airport. See Compact, Title I, Article I. The Compact expressly provides that the provisions of Title II do not apply to transportation rendered solely within the Commonwealth of Virginia.

See Title II, Article XII, Section 1(b). Because Dulles and National are located within the Commonwealth of Virginia, the authority to be granted, if any, could not include all points within the Metropolitan District. Accordingly, the application as filed requests authority broader than the Commission has authority to grant. The Commission believes that the portion of the application requesting authority with respect to points within the Metropolitan District located in the Commonwealth of Virginia other than Dulles or National should be dismissed. The Commission shall consider only that portion of Executive's application requesting authority to transport air line crews and employees, between Dulles or National on the one hand, and on the other, points within the Metropolitan District located in the District of Columbia or the State of Maryland.

The transportation service to be performed by Executive would be rendered for aircraft crews of either Air France, or British Overseas Airways Corporation (BOAC), or Delta Air Lines, Inc. (Delta). The service would be provided pursuant to a contract either between Air France and Executive, between BOAC and Executive, or between Delta and Executive. Executive did not file a proposed tariff with the applications.

The Commission is of the opinion that the proposed service is subject to the provisions of the Compact and properly within the regulatory jurisdiction of this Commission. The proposed service would involve transportation of passengers for hire under a continuing written contract for the furnishing of transportation services through the provision of a vehicle or vehicles to meet the distinct need and for the exclusive and periodically recurrent use of the contracting party.

Under Title II, Article XII, Section 4(d)(3) of the Compact, the Commission must base any decision to grant an applicant temporary authority to provide a specific service upon the finding that there is an immediate and urgent need to a point or points within a territory having no carrier service capable of meeting such need. So finding, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority.

Executive contends that there is an immediate and urgent need for the proposed service and that existing carrier service was recently discontinued. Executive filed as part of the application, letters of support from Air France, BOAC and Delta. The letters contain essentially statements in support of the applications. Each letter states that there is a need for surface transportation for air line crews between Dulles or National and hotel facilities in Washington, D. C., or connecting airports. The air lines indicate that security and schedule requirements necessitate the use of dependable and reliable carriers. For these reasons, the crews cannot be transported in public conveyance. Further, the air lines state that Greyhound Airport Service, Inc. (Greyhound), the carrier holding permanent certificate authority to provide transportation services similar to the proposed service, discourages the transportation of air line crews and will handle them only in the same vehicles and under the same conditions as the general public. Apparently, Greyhound's truck style vans are not authorized onto the air field and are not acceptable to the air lines.

The pleadings and statements in support of the temporary authority application do not fully satisfy the criteria for granting temporary authority. Particularly, they fail to show that no carrier service is capable of meeting the alleged immediate and urgent need. Accordingly, a hearing should be scheduled to develop a record upon which the Commission could properly dispose of Executive's application for temporary authority. However, in view of the Commission's directive hereinafter setting a hearing on the application for a certificate of public convenience and necessity, the Commission shall dismiss without prejudice the temporary authority application, and proceed directly to a determination of the application for permanent authority.

Title II, Article XII, Section 4(b) of the Compact provides as follows:

When an application is made under this section for a certificate. . . . , the Commission shall issue a certificate to any qualified applicant therefore,

. . . . , if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise such application shall be denied. (Emphasis added.)

Pursuant to this mandate, the Commission shall schedule a hearing to develop an appropriate record.

The Commission necessarily desires to fully develop the basis for any finding as to Executive's fitness to perform the proposed transportation service and the existing requirements of the public convenience and necessity for the proposed transportation service. Therefore, the Commission shall require Executive to ~~submit~~ and be prepared to support with competent witnesses the following exhibits:

- (A) A detailed balance sheet of applicant as of September 30, 1974;
- (B) A detailed income statement of applicant for the 12-month period ending September 30, 1974;
- (C) A projected statement of revenues and expenses, including taxes, for a one-year period, together with supporting details, including operating ratio;
- (D) Copies of the contracts between Executive and Air France, between Executive and BOAC, and between Executive and Delta which form the basis for the proposed service;
- (E) A tariff for the proposed services; and
- (F) A list of equipment, including specifications, which will be used to provide the proposed service.

The Commission shall direct Executive to file six (6) copies of the statements and exhibits required hereinbefore and serve one copy on each party of record on or before Tuesday, November 19, 1974. Executive shall be prepared to present representatives of Air France, BOAC, and Delta who would be able to support the claims that public convenience and necessity require such service.

The Commission believes that an additional matter should be considered. Executive's application for a certificate of public convenience and necessity, as modified hereinbefore, is for general authority to transport air line crews and employees to or from Dulles or National and points within the Metropolitan District located in the District of Columbia or the State of Maryland. However, the exhibits and letters of support filed with the application indicate that the transportation service to be performed would be pursuant to contracts between Executive and Air France, between Executive and BOAC, or between Executive and Delta. Operations pursuant to these contracts would constitute charter operations pursuant to contract. As such, the authority to be granted if any, would necessarily involve only service pursuant to a specific contract. The authority sought appears to be broader than the operations proposed to be performed. Of course, the Commission has the power only to grant the authority found to be required by the public convenience and necessity.

THEREFORE, IT IS ORDERED:

1. That Application No. 823 of Executive Limousine Service, Inc., for temporary authority to transport air line crews and employees, between Dulles International Airport or Washington National Airport, on the one hand, and on the other, points within the Metropolitan District be, and it is hereby, dismissed without prejudice.

2. That the portion of Executive Limousine Service, Inc.'s Application No. 824 requesting authority to transport air line crews and employees, between Dulles International Airport or Washington National Airport, on the one hand, and on the other, points within the Metropolitan District located within the Commonwealth of Virginia be, and it is hereby, dismissed.

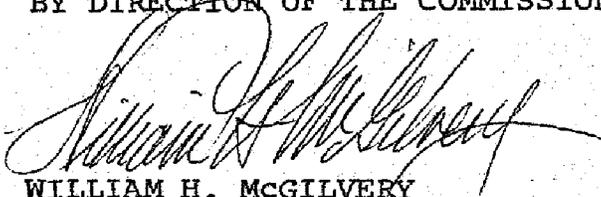
3. That Application No. 824 of Executive Limousine Service, Inc., for authority to transport air line crews and employees, between Dulles International Airport or Washington National Airport, on the one hand, and on the other, points within the Metropolitan District located within the District of Columbia or the State of Maryland be, and it is hereby, scheduled for public hearing to commence Tuesday, November 26, 1974, at 10:00 a.m., in the Hearing Room of the Commission, Room 314, 1625 Eye Street, N. W., Washington, D. C. 20006.

4. That Executive Limousine Service, Inc., publish notice in the form prescribed by the staff of the Commission of such application and hearing in a newspaper of general circulation in the Metropolitan District no later than Friday, November 1, 1974, and present at the hearing a certificate of publication from the selected newspaper.

5. That six (6) copies, the original to be submitted at the hearing, of the statements and exhibits required hereinbefore be submitted by Executive Limousine Service, Inc., to the Commission and one copy served on each party of record on or before Tuesday, November 19, 1974.

6. That any person desiring to protest or otherwise to be heard on this matter shall notify the Commission, in writing, on or before Friday, November 15, 1974, and mail a copy of such notification to counsel of record for Executive Limousine Service, Inc., Maxwell A. Howell, Esquire, 1511 K Street, N. W., Washington, D. C. 20005.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Acting Executive Director