

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1385

IN THE MATTER OF:

Application of McMICHAEL SCHOOL)	Served December 2, 1974
BUS SERVICE, INC., for Certificate)	Application No. 850
of Public Convenience and Necessity)	Docket No. 277

By application, filed November 26, 1974, McMichael School Bus Service, Inc. (McMichael) seeks a certificate of public convenience and necessity pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform a charter operation pursuant to contract. McMichael seeks authority to transport members of the Parklawn Commuters Club (Commuters Club) between Eastover Shopping Center and Penn Mar Shopping Center in Prince George's County, Maryland, and the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, and return.

The transportation service to be performed would be provided pursuant to a contract between the Commuters Club and McMichael. The contract is for a one-year period with a provision therein for either party to terminate said agreement upon written notice of no less than thirty (30) days. The service would be provided on a daily basis at the rate of ninety dollars (\$90) per day. McMichael states that it would use school bus number 100 to perform the service and that school bus number 52 would be available. Only members of the Commuters Club would be transported.

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 therefor, . . . , 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, we shall schedule a hearing to develop an appropriate record.

The reason for the hearing is to fully develop the basis for any finding as to McMichael's fitness to perform the proposed transportation service and the existing requirements of the public convenience and necessity for the proposed transportation service. We shall require McMichael 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; and
- (C) A statement projecting revenues and revenue deductions, including taxes, allocated between the contract with Parklawn and other operations, for a one-year period, together with supporting details, including the ratio between revenue deductions and revenues.

McMichael shall be directed to file six (6) copies of the statements and/or exhibits required hereinbefore with the Commission and serve one copy on each party of record on or before Friday, January 10, 1975. McMichael shall be prepared to present evidence that public convenience and necessity require such service.

In the application for permanent authority, McMichael states that there is an immediate and urgent need for this service, that no competing carriers will be affected by approval of this authority, and that it is the only carrier which can provide the service at a price that the Commuters Club can pay. These allegations are basic to a grant of temporary authority to provide service to the public. We may, in our discretion and without hearings or other proceedings, authorize a carrier to provide a service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. See Compact, Title II, Article XII, Section 4(d)(3). Moreover, there is no provision in the Compact that conditions a grant of temporary authority upon a carrier filing an application for such authority.

In support of the application for a certificate of public convenience and necessity, McMichael filed a letter prepared by Robert Evans, Treasurer of the Commuters Club, requesting that we authorize McMichael to perform the proposed service. The letter indicates that the Commuters Club previously obtained this service from other carriers, and that the decision to use McMichael is based upon price. The Commuters Club supports McMichael's application because its proposed rates are substantially less than other rates it has been quoted. In addition, McMichael states that the Commuters Club will be without transportation after December 2, 1974, because the current contract will have expired.

We believe that McMichael should be granted temporary authority pending our decision on the application for a certificate of public convenience and necessity. It is our opinion that members of the Commuters Club have an immediate and urgent need for transportation between Eastover Shopping Center and Penn Mar Shopping Center in Prince George's County, Maryland, and the Parklawn Building, Rockville, Maryland, and return. Of course, our grant of temporary authority creates no presumption that corresponding permanent authority will be granted.

THEREFORE, IT IS ORDERED:

1. That Application No. 850 of McMichael School Bus Service, Inc., be, and it is hereby, scheduled for public hearing to commence Thursday, January 16, 1975, at 10:00 a.m., in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

2. That McMichael School Bus 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, December 13, 1974, and to present at the hearing, a certificate of publication from the selected newspaper.

3. That six (6) copies, the original to be submitted at the hearing, of the statements and exhibits required hereinbefore be filed by McMichael School Bus Service, Inc., with the Commission and one copy served on each party of record on or before Friday, January 10, 1975.

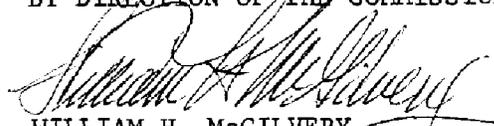
4. That any person desiring to protest shall file a protest or any person desiring to be heard on this matter shall notify the Commission, in writing, on or before Monday, January 6, 1975, and shall mail a copy of such protest or such notice to counsel of record for McMichael School Bus Service, Inc., J. Steven Lempel, Esquire, 1120 Connecticut Avenue, N. W., Washington, D. C. 20036.

5. That McMichael School Bus Service, Inc., be, and it is hereby, granted temporary authority to transport members of the Parklawn Commuters Club between Eastover Shopping Center and Penn Mar Shopping Center in Prince George's County, Maryland, on the one hand, and, on the other, the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, and return.

6. That unless otherwise provided by order of the Commission, the temporary authority granted herein shall become effective Monday, December 2, 1974, and shall remain in effect through Saturday, May 30, 1975.

7. That McMichael School Bus Service, Inc., be, and it is hereby, required to file forthwith an appropriate tariff pursuant to the temporary operating authority granted herein, to be effective December 2, 1974.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Acting Executive Director