

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1441

IN THE MATTER OF:

Application of BANNISTER)	Served July 14, 1975
ENTERPRISES, INC., for)	
Temporary Authority to)	Application No. 865
Perform Charter Operations)	
Pursuant to Contract)	Docket No. 288

By Application No. 865, dated June 9, 1975, Bannister Enterprises, Inc. (BEI) seeks temporary authority, pursuant to Title II, Article XII, Section 4(d)(3) of the Compact, to transport persons, as designated by agencies of the District of Columbia Government (District of Columbia), over irregular routes, between points within the Metropolitan District.

The transportation would be rendered pursuant to a contract between BEI and the District of Columbia. The transportation would be provided in either 44-passenger or 51-passenger buses. The services and rates are specified in the contract. The rates are either hourly or by the trip. The hourly rates would approximate \$15 per hour; the one-way trip rates would vary between \$30 and \$38.50; and the round-trip rates would vary between \$60 and \$70. The rate applicable to a specified service is dependent upon the vehicle utilized, with a premium rate for weekend service.

The passenger would not be required to pay for the transportation service. The agencies using the service would control the boarding of passengers. The contract requires four days advance notice by the agency to BEI. Should the agency request the service and then not use it, a dismissal fee would be paid.

The contract is for a one-year period commencing June 1, 1975 and ending May 31, 1976. There is no renewal option set forth in the contract. The contract contains an estimate of the service to be rendered during the period and the revenue to be realized. The number of trips estimated for the Metropolitan District would be 2405 and the revenue for these trips would be approximately \$131,535.

BEI and/or its affiliate corporations have been in operation since December 1968. Bannister Transportation Systems, Ltd., has been formed for the purpose of simplifying the corporate relationship between BEI and its affiliate corporations.

By Order No. 1427, served May 19, 1975, an affiliate of BEI, Bannister Car Rental & Chauffeur Service, Inc., was temporarily authorized by this Commission to provide transportation from specified points located within the Metropolitan District, as therein described, to the Wolf Trap Farm Park for the Performing Arts, Filene Center, at or near Vienna, Va., and return. That service is performed in limousines, mini-wagons, and/or mini buses having capacities not exceeding 17 passengers.

BEI has provided transportation for the District of Columbia public schools. That service involves daily transportation of eight to fifteen delinquent boys to and from school. The transportation service has been subject to the provisions of an agreement between BEI and the District of Columbia. That service is performed in a customized bus.

BEI's primary transportation service has been protocol chauffeuring, car leasing and car rental. That operation has involved the use of independent contractors who provide the chauffeuring service. BEI owns three limousines and actually performs only a limited amount of the chauffeuring service with its own vehicles and drivers.

BEI has entered into a contract with the Vechtel Corporation for assistance in managing the proposed operations. BEI also has arranged to purchase fifteen buses to be used in performing the services for which temporary authority is being sought. BEI has arranged to lease a building which would provide facility for maintaining the vehicles and has arranged to employ drivers of these vehicles.

By Order No. 1438, served June 13, 1975, the Commission scheduled a public hearing on BEI's application for June 27, 1975. The purpose of the hearing was to develop a record with respect to BEI's fitness and ability to perform. Blue Lines, Inc., appeared at the hearing as a protestant. Blue Lines is a certified carrier authorized, inter alia, to render charter operations and special operations from points within the District of Columbia to points within the District of Columbia and special operations from points within the District of Columbia to the City of Alexandria, Arlington County and Mount Vernon, Fairfax County, Virginia and return. The Washington Metropolitan Area Transit Authority (WMATA) appeared at the hearing as an interested party. The contract between BEI and the District of Columbia is merely a portion of a larger transportation program. WMATA has entered a contract with the District of Columbia to perform that portion of the transportation program not to be provided by BEI. Furthermore, only BEI and WMATA submitted bids to the District of Columbia on the contract.

DISCUSSION AND CONCLUSIONS

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, grant temporary authority.

With respect to any application for authority, the Commission initially must determine whether the carrier would be fit, willing and able to provide the proposed service. The question of fitness involves a determination of the financial ability of the carrier to properly render the proposed service. Necessarily, ability relates both to operations and financial condition.

The contract requires BEI to provide vehicles as requested by the District of Columbia agencies. These agencies may place service orders for more vehicles than BEI owns. Upon these occasions, BEI proposes to lease equipment from other carriers in the Metropolitan District. Although the Commission does not

condone such practices, such arrangements are necessitated by the variation from day to day in the number of vehicles actually utilized. BEI's base number of vehicles apparently would be sufficient to serve most of the agencies on a normal business day.

During the fiscal year ended April 20, 1975, BEI generated \$88,970.70 in revenue and incurred expenses totalling \$69,339.15. The net income for the period was \$19,631.55. The major expense was contractor services in the amount of \$34,108.58. This expense item resulted primarily from payments to independent contractors who provided chauffeuring services.

BEI has projected revenues and expenses for the fiscal year ending May 31, 1976. This period is the same period as the contract term. The projected revenues total \$273,735 of which \$131,535 is allocated to the District of Columbia contract. The projected expenses total \$236,272.42 of which \$113,540.46 is allocated to the District of Columbia contract. The projected net income is \$37,462.58.

For purposes of this temporary authority application, the Commission shall consider the revenues and expenses projected by BEI. Initially, the expense item for bus drivers' payroll must be adjusted. The projected amount (\$44,160) was determined by using an average wage of \$4.60 per hour. However, the wage determination provision included with the contract indicates a wage rate of \$6.725 per hour. Therefore, the projected amount shall be increased to reflect the higher wage rate. The adjusted projected amount would be \$64,560 or an increase of \$20,400. The derivative adjustments to BEI's tax obligations is \$2,199. Thus, the projected total expense will be \$136,139.46.

The District of Columbia contract would result in a net loss of \$4,604.46. This loss would have to be compensated by other net income. Without the other income as a source of revenue to satisfy the expenses of this operation, BEI would not be financially able to perform. Furthermore, BEI would be obligated to make bus payments, including interest, of \$15,600 during the future fiscal period. The effect of these obligations would be the negation of any projected net income from all operations.

The Commission is of the opinion that BEI's financial condition is marginal at best. The revenue to be generated by providing the service pursuant to the contract together with the other net income should be sufficient to offset the expenses incurred. However, the projected financial condition is severely constrained by the high level of capital expenditures necessary to commence operations on a scale required by the contract with the District of Columbia.

The Commission finds that there is an immediate and urgent need for the proposed service. The contract period commenced June 1, 1975 and the District of Columbia agencies currently need this transportation service. The Commission further finds that there is no existing carrier service capable of performing the District of Columbia contract.

THEREFORE, IT IS ORDERED:

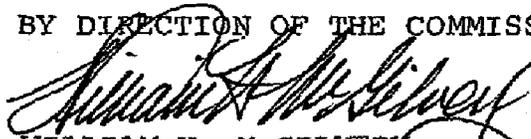
1. That Bannister Enterprises, Inc., be, and it is hereby, granted temporary authority to transport persons, as designated by agencies of the District of Columbia government, over irregular routes, between points within the Metropolitan District in charter operations pursuant to a contract with the Government of the District of Columbia.

2. That Bannister Enterprises, Inc., be, and it is hereby, required to file forthwith an appropriate tariff pursuant to the temporary operating authority granted herein, to be effective July 14, 1975.

3. That Bannister Enterprises, Inc., be, and it is hereby, required to file forthwith, two copies of its contract to provide the service authorized herein, pursuant to Regulation 56-03.

4. That unless otherwise provided by order of the Commission, the temporary authority granted herein shall become effective Monday, July 14, 1975, and shall remain in effect through Saturday, January 10, 1976.

BY DIRECTION OF THE COMMISSION


WILLIAM H. MCGILVERY
Acting Executive Director