

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1483

IN THE MATTER OF:

Application of WASHINGTON AREA)	Served January 6, 1976
MINI-BUS TOURS for Certificate)	
of Public Convenience and)	Application No. 880
Necessity to Perform Special)	
Operations)	Docket No. 297

APPEARANCES:

JAMES W. LAWSON, Attorney for Washington Area Mini-Bus Tours, applicant.

L. C. MAJOR, JR., Attorney for The Gray Line, Inc., protestant.

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

BY THE COMMISSION:

By Application No. 880, dated October 3, 1975, Washington Area Mini-Bus Tours (Mini-Bus), the trade name for a business conducted by Daniel S. Carver and Kenneth R. Strickland, seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform special operations. The application sets forth a request for authority to transport passengers, over irregular routes, in special operations, within a limited portion of the Metropolitan District. The proposed service area would be Washington, D. C., Arlington National Cemetery and Iwo Jima Memorial in Arlington County, Virginia, Alexandria, Virginia, and Mount

Vernon, Virginia. 1/ The proposed service would include free hotel and motel pick-up and delivery service anywhere within the Metropolitan District.

On November 3, 1975, The Gray Line, Inc. (Gray Line) filed a protest to Mini-Bus' application. Gray Line holds Certificate of Public Convenience and Necessity No. 12 from this Commission. That Certificate authorizes, as relevant to this proceeding, the performance of special operations, round-trip sightseeing or pleasure tours, over irregular routes, from points within the Metropolitan District, except Dulles International Airport and Alexandria, Virginia, to points in the Metropolitan District.

Gray Line submits that the service proposed by Mini-Bus would duplicate and compete with its sightseeing and pleasure tour services. Gray Line also submits that similar services are being provided throughout the Metropolitan District by other certificated carriers. Gray Line's position is that the public convenience and necessity does not justify or require the sightseeing and pleasure services proposed by Mini-Bus. According to Gray Line, a grant of the application would result in the creation of a totally unwarranted new competitive sightseeing and pleasure tour service, which would divert revenues that Gray Line needs to sustain its operations.

Pursuant to Order No. 1464, served October 28, 1975, a hearing was held December 11, 1975, to develop an appropriate record. At the hearing, Mini-Bus amended its application. The amendment reflects a request to condition any grant of authority with a vehicle capacity restriction.

1/ The Commission's Order No. 1449, served August 1, 1975, "petition" seeking reconsideration denied by Order No. 1453, served August 29, 1975, granted Mini-Bus temporary authority to transport passengers, in special operations for the purpose of sightseeing, over irregular routes, within downtown Washington, D. C., Arlington National Cemetery and Iwo Jima Memorial in Arlington County, Virginia, Alexandria, Virginia, and Mount Vernon, Virginia. Such temporary authorization became effective August 1, 1975 and will terminate January 28, 1976, unless otherwise provided by order of the Commission.

The restriction provides for vehicles which accommodate not more than 15 passengers excluding the driver and special accommodations for two additional wheelchair passengers. Thus, if there were wheelchair passengers involved, Mini-Bus could transport 17 passengers in the vehicle. Obviously, Mini-Bus could operate service involving no wheelchair passengers.

Upon acceptance of the amendment by the presiding officer, Gray Line withdrew its opposition. Gray Line's withdrawal was based upon its belief that the public should not be deprived of a specialized service for handicapped persons. Gray Line expressed concern that Mini-Bus might make service for the handicapped a secondary feature of its operations.

The findings to be made by the Commission 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. 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.

Mini-Bus seeks Commission approval to operate a sightseeing service. That service would consist of four separate tours. These tours and the applicable rates are described in length in Commission Order No. 1449, which is incorporated herein by reference.

Mini-Bus would seek to serve the particular needs of handicapped persons. According to Mini-Bus, persons confined to wheelchair or with heart conditions or the aged have special sensitivities about their condition. These persons apparently have difficulty locating suitable facilities to satisfy their particular needs. As a result, handicapped persons apparently find it more convenient to travel in smaller groups in vehicles specially equipped or designed to accommodate them. Mini-Bus states that the handicapped person is better able to blend into smaller groups and feel as though they are a member of the group.

Mini-Bus stated that few carriers 2/ operate equipment which is suitable for transporting handicapped in sightseeing or pleasure tours. According to Mini-Bus, the seating configuration of coach vehicles is not suitable for the transportation of handicapped persons. The problems occasioned by touring in coaches apparently include the placement of wheelchairs in the vehicle, the reservation of the front seats for such persons, and the movement of such persons to and from seats within the coach. Furthermore, Mini-Bus states that use of van vehicles is more advantageous than coach vehicles. Apparently, vans discharge and pick-up handicapped persons at points in closer proximity to building entrances than do coaches. Vans also are able to enter Arlington National Cemetery under special provisions for handicapped persons whereas coaches are not permitted to do so. The van seating configuration can be modified to accommodate touring by handicapped persons.

Mini-Bus stated that few carriers actively solicit trade from the handicapped, Mini-Bus indicated that it would attempt to specialize in and cater to the touring needs of handicapped persons. According to Mini-Bus, handicapped persons commonly tour with non-handicapped persons. Moreover, Mini-Bus stated that the anticipated revenues would not be sufficient to sustain a viable operation if the revenues were derived from operations restricted to handicapped persons and persons touring with them. Accordingly, Mini-Bus seeks authority to transport any person desiring to purchase the proposed service.

2/ Diamond Tours, Inc., and Landmark Service, Inc., apparently do operate suitable equipment for sightseeing by the handicapped. The Commission currently has pending separate applications by Rehab Transportation, Inc., and Ironsides Medical Transportation Corporation for authority to transport disabled, infirm, handicapped, or wheelchair passengers, together with their baggage. See Order No. 1475, served November 20, 1975 and Order No. 1480, served December 12, 1975. These applications do not indicate that sightseeing services would be included.

Mini-Bus would render the proposed service in van vehicles, which would have fifteen separate passenger seats and additional brackets or sockets to hold two wheelchairs. These vans would be specially equipped with doors and ramps suitable for easy movement of handicapped persons to and from the vehicle. The vans would have good visibility windows and sufficient room to enable persons to move within the vehicle.

The four tours described in Order No. 1449 would be continued. Mini-Bus does not anticipate that there would be any change in the number of tours or the number of stops on each tour. These four tours are similar to tour services currently offered by Gray Line. The separate tours are conducted in the same general area and involve essentially the same stops. The primary difference between Mini-Bus' operations and Gray Line's operations is the vehicle size used in rendering the service. Mini-Bus will use van vehicles and Gray Line currently uses coach vehicles. Mini-Bus also provides the tourist with more stops on Tour A and Tour B.

The Commission believes that the record supports a finding that Mini-Bus is 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. The Commission further believes that the record supports a finding that the public convenience and necessity requires the approval of Mini-Bus' application for authority to perform special operations.

The Compact bestows upon the Commission "the power to attach to the issuance of a certificate and to the exercise of rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require". See Compact, Title II, Article XII, Section 4(b). This grant of power to the Commission is subject to a restriction not herein relevant. The Commission believes that the authority granted to Mini-Bus should contain a restriction on vehicle size. As previously indicated herein, Mini-Bus amended its application at the hearing and requested that the authority be restricted to provide for transportation services in vehicles which accommodate not more than 15 passengers excluding the driver and special accommodations for two additional wheelchair passengers. The Commission

believes that the public interest requires such a restriction and the authority granted herein shall be so restricted.

The Compact requires each carrier to "file with the Commission, and keep open to public inspection, tariffs showing (1) all fares it charges for transportation subject to this Act, . . . , and (2) to the extent required by regulations of the Commission, the regulations and practices of such carrier affecting such fares." See Compact, Title II, Article XII, Section 5(a). The Commission shall direct Mini-Bus to file such a tariff with respect to the special operations authority granted herein.

Mini-Bus has submitted as part of its application a proposed tariff. The tariff sets forth the same rates for each tour as described in Order No. 1449. Mini-Bus also submitted a summary statement of the passengers transported between August 1, 1975 and October 31, 1975. The following table sets forth for each tour the full fare passengers, the applicable fare per passenger, the half fare passengers, and the applicable half fare per passenger.

<u>TOUR DESCRIPTION</u>	<u>FULL FARE PASSENGER</u>	<u>FARE PER PASSENGER</u>	<u>HALF FARE PASSENGER</u>	<u>HALF FARE* PER PASSENGER</u>
A	289	\$ 24	21	\$ 11
B	340	10	32	5
C	193	11	16	5.50
D	<u>132</u>	11	<u>2</u>	5.50
TOTAL	954		71	

* This fare applies to persons under 12 years of age.

Mini-Bus also submitted a summary statement of revenues and revenue deductions for the period August 1, 1975 to October 31, 1975. That statement indicates operating revenues \$14,422 and operating revenue deductions, excluding any compensation to either Daniel S. Carver or Kenneth R. Strickland, \$6,963.36. The revenue margin for the period was \$7,458.64.

Mini-Bus estimates that the performance of the proposed special operations would involve \$95,000 in revenues and \$66,700 in revenue deductions during the future period calendar year 1976. The projected revenues include \$20,000 from operation of an additional vehicle and the projected revenue deductions include consideration of the expenses associated with the anticipated use of another vehicle. The projected revenues are based on an annualized \$50,000 revenue amount for 1975. That amount is projected to increase by 50 percent as a result of an increase in tourism in the Metropolitan District and mini-Bus' establishment as a sightseeing company.

Although the Commission does not find that the estimates by Mini-Bus of increased revenues are accurate, the proposed rate structure appears to be compensatory. The revenues projected without any increase in tourism would be \$82,500 and without any increase as a result of the establishment of Mini-Bus' business would be \$70,000. That amount would exceed the projected \$66,700 in revenue deductions. Accordingly, the Commission concludes that the proposed rate structure is just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

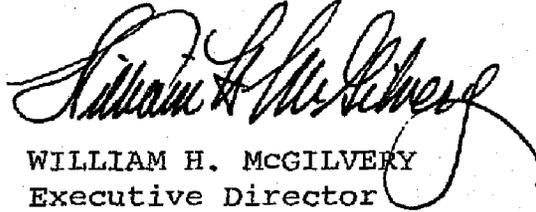
The Commission has considered the other matters pressed by the parties but finds they do not warrant action contrary to that which is now directed.

THEREFORE, IT IS ORDERED:

1. That Application No. 880 of Washington Area Mini-Bus Tours be, and it is hereby, granted.
2. That Washington Area Mini-Bus Tours be, and it is hereby, issued Certificate of Public Convenience and Necessity No. 28, as attached hereto and made a part hereof.

3. That Washington Area Mini-Bus Tours be, and it is hereby, directed to file WMATC Tariff No. 1 in accordance with the authority granted herein, such tariff to be effective upon acceptance by the Executive Director.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director

Attachment
Order No. 1483

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

No. 28

WASHINGTON AREA MINI-BUS TOURS*
RIVERDALE, MARYLAND

By Order No. 1483 of the Washington Metropolitan Area Transit Commission issued January 6, 1976.

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. 1483.

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 limited to individually ticketed sightseeing service:

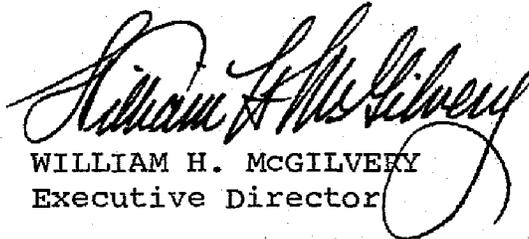
- * Washington Area Mini-Bus Tours is the trade name for a business conducted by Daniel S. Carver and Kenneth R. Strickland.

Between points in the District of Columbia, that portion of Arlington County, Virginia, wherein is located Arlington National Cemetery and Iwo Jima Memorial, Alexandria, Virginia, and Mount Vernon, Virginia, including transportation from hotels and motels within the Metropolitan District to such points for the purpose of such sightseeing, and return.

RESTRICTED to the performance of such operations in vehicles with a seating capacity of fifteen passengers excluding the driver and special accommodations for two additional wheelchair passengers.

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:



WILLIAM H. MCGILVERY
Executive Director