

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1498

IN THE MATTER OF:

Served February 11, 1976

Application of BANNISTER ENTER- )  
PRISES, INC., for a Certificate of )  
Public Convenience and Necessity to )  
Perform Charter Operations Pursuant )  
to Contract )

Application No. 905

Docket No. 309

By Application No. 905, filed January 20, 1976, Bannister Enterprises, Inc. (BEI) 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. BEI seeks authority 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 school buses or over-the-road and suburban coaches. The services and rates are specified in the contract. The rates are either by the trip charges or hourly charges. The one-way trip rates would vary between \$30 and \$38.50; the round-trip rates would vary between \$60 and \$70; and the hourly rates would approximate \$15 per hour. The contract sets forth the rate applicable to a specified service. The passenger would not be required to pay for the transportation service.

By Order No. 1441, served July 14, 1975, BEI was granted temporary authority to perform the transportation services which are the subject matter of this application for permanent authority. The temporary authority became effective on July 14, 1975, and terminated on January 10, 1976, a period of 180 days. The contract between BEI and the District of Columbia is for a one-year period commencing June 1, 1975, and ending May 31, 1976. BEI seeks a certificate of public convenience and necessity to authorize the performance of the transportation services until the completion of the contract term. BEI also requests temporary authority to continue the provision of the transportation services pending a decision on the permanent authority application.

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, the Commission shall schedule a hearing to develop an appropriate record. BEI shall be assessed an amount preliminarily estimated to be sufficient to cover the expenses which the Compact, Title II, Article XII, Section 19(a) requires the carrier to bear.

BEI's request for temporary authority to continue the provision of the transportation services shall be rejected. The Compact, Title II, Article XII, Section 4(d)(3), contains the following restrictions upon a grant of temporary authority.

Such temporary authority unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of 180 days and create no presumption that corresponding permanent authority will be granted thereafter. (Emphasis added.)

The Compact clearly sets forth a statutory limitation upon the period that temporary authority may be effective. Acceptance of BEI's request would result in the consideration of a temporary authority application to provide a service for more than 180 days.

THEREFORE, IT IS ORDERED:

1. That Application No. 905 of Bannister Enterprises, Inc., be, and it is hereby, scheduled for public hearing to commence Monday, March 1, 1976, at 10:00 A. M., in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

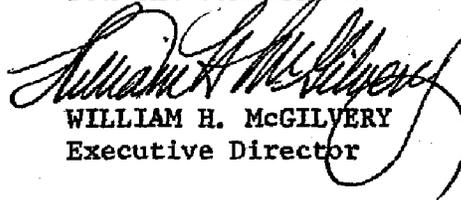
2. That Bannister Enterprises, Inc., publish in a newspaper of general circulation in the Metropolitan District a notice in the form prescribed by the staff of the Commission of such application and hearing no later than Wednesday, February 18, 1976, and present at the hearing a certificate of publication from the selected newspaper.

3. That any person desiring to protest shall file a protest in accordance with Commission Rule 14, or any person desiring to be heard on this matter shall notify the Commission, in writing, on or before Wednesday, February 25, 1976, and shall mail a copy of such protest or notice to Ernest H. Bannister, President, Bannister Enterprises, Inc., 635 F Street, N. W., Suite 406, Washington, D. C. 20004.

4. That Bannister Enterprises, Inc., be, and it is hereby, assessed \$200 pursuant to the provisions of the Compact, Title II, Article XII, Section 19 and directed to deliver said amount to the office of the Washington Metropolitan Area Transit Commission, Room 314, 1625 I Street, N. W., Washington, D. C., on or before Wednesday, February 25, 1976.

5. That the request by Bannister Enterprises, Inc., for temporary authority be, and it is hereby, rejected.

FOR THE COMMISSION:



WILLIAM H. MCGILVERY  
Executive Director