

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1526

IN THE MATTER OF:

Application of REHAB)	
TRANSPORTATION, INC.,)	Served March 30, 1976
for Certificate of)	
Public Convenience)	Application No. 888
and Necessity to)	
Perform Special)	Docket No. 300
Operations)	

BY THE COMMISSION:

By Application No. 888, dated October 31, 1975, Rehab Transportation, Inc. (Rehab) seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport passengers together with their baggage, over irregular routes, in special operations, within the Metropolitan District. See Compact, Title I, Article I.

On December 2, 1975, Greyhound Airport Service, Inc. (Greyhound) filed a protest to Rehab's application. Greyhound holds Certificate of Public Convenience and Necessity No. 7 from this Commission. That certificate authorizes, as relevant to this proceeding, the performance of special operations, over irregular routes, between either Dulles International Airport (Dulles) or Washington National Airport (National), on the one hand, and points in the Metropolitan District, on the other.

Greyhound submits that Rehab's application seeks authority to provide a service which would be directly competitive and highly detrimental. Greyhound asserts that there is no public need or demand for Rehab's

proposed unrestricted special operations service either to or from Dulles or National. According to Greyhound, the public convenience and necessity does not justify or require the granting of Rehab's application.

By letter dated January 7, 1976, counsel for Greyhound indicated that Greyhound was withdrawing its protest. The basis for the withdrawal was an amendment to the application by Rehab. That amendment restricts the transportation for hire to persons who are disabled, infirm, handicapped or wheelchair passengers.

By Order No. 1475, served November 20, 1975, a public hearing was scheduled to commence on January 6, 1976. However, on that date, Rehab filed a motion requesting a postponement of the hearing and reassignment of the application for public hearing on January 13, 1976. The basis for the requested postponement was the unavailability of certain witnesses. The public hearing was rescheduled and formal notice was sent to the parties.

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.

Rehab is a Maryland corporation. It was formed to serve the transportation needs of persons unable to use public transit services. The operations primarily involve transportation to and from hospitals, clinics, medical offices, and nursing homes. The services are usually the result of referrals by agencies or hospitals concerned with providing treatment to persons who are disabled or handicapped. The Interstate Commerce Commission has authorized Rehab to transport handicapped and disabled passengers, their attendants, and their baggage, in special operations, limited to transportation in vehicles

carrying no more than 12 passengers, including the driver thereof, between Washington, D. C., and Baltimore, Md., on the one hand, and on the other, points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia.

Rehab's transportation services vary between seasons of the year. During the winter and spring, Rehab has provided approximately 80 patients per week with transportation. In the summer, the transportation service is provided to approximately 60 patients per week. The number of patients being transported during the fall is approximately 45 to 50 per week. The service is provided daily between approximately 7 A.M. and 9 P.M.

Rehab renders the transportation service in specially modified van-type equipment. The vehicles have been equipped to provide access for persons travelling in wheelchairs and to provide fasteners to maintain the wheelchair in place when the vehicle is being operated. Rehab currently operates four radio-equipped vans. The vehicle operators are specially trained in Red Cross programs and the vehicle contains first-aid equipment.

Rehab supported its application with several verified statements. These statements generally indicate a need for specialized medical transportation services. Such services are required to transport persons between residences and clinics, medical offices, or hospitals for the purpose of receiving particular treatments. The frequency and magnitude of use varies among the several institutions supporting Rehab's application. It is clear that members of the general public need the specialized service being performed by Rehab.

Rehab also supported its application with a verified statement filed on behalf of the Veterans Administration Hospital (VA). According to that statement, VA has awarded a contract to Rehab which expires on September 30, 1976. VA apparently must arrange transportation for approximately 100 persons per month. This service includes the transportation of patients between their homes and hospitals in connection with hospital's out-patient program. VA also arranges transportation service between hospitals and nursing homes or orthopedic facilities.

Rehab has entered an agreement with the Department of Vocational Rehabilitation of the District of Columbia (DVR). That agreement apparently is similar to the agreement between Rehab and VA. The transportation service is primarily for out patient treatment at local clinics, hospitals and medical offices. Rehab also has entered an agreement with the parents of seven children who attend the Kennedy Institute. This service consists of transporting the children in the morning from points in Montgomery County to the Kennedy Institute and returning the children in the afternoon.

The Commission believes that the record supports a finding that Rehab 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 Rehab's 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 Rehab should contain two restrictions. First, as previously indicated, Rehab amended its application at the hearing and requested that the authority be restricted to provide for transportation of persons who are handicapped, disabled and infirm, and wheelchair passengers. The Commission shall grant authority to Rehab to transport handicapped or disabled passengers. This description of the passengers would embrace each of the descriptive terms proposed by Rehab. In addition, the Commission believes the authority should provide for the incidental transportation of the attendants of such passengers. Second, the Commission shall limit the transportation to vehicles which accommodate not more than 15 passengers excluding the driver. The Commission believes that the public interest requires such restrictions 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). Rehab filed as part of its application a schedule of rates. See Order No. 1475, served November 20, 1975. At the hearing Rehab requested that the schedule of rates be amended. Rehab proposes the following rate schedule.

<u>NUMBER OF PASSENGERS</u>	<u>RESPONSE CALL</u>	<u>RATE FOR FIRST FOUR MILES</u>	<u>RATE FOR EACH ADDITIONAL MILE</u>
1	\$ 13	\$ 0.75	\$0.50
2	14	1.00	0.60
3	15	1.20	0.75
4	16	1.60	1.00

A response call is defined to be the taking of a request for service and the appearance of Rehab at the passenger's origin point. Should the person requesting the service not use the transportation, then the response call rate is paid as a dismissal charge. Rehab also would charge \$5.00 additional when two persons are required to assist the passenger in boarding and alighting from the vehicle.

Rehab stated that the average one-way trip involves approximately four miles. Apparently, approximately 60 percent of Rehab's clients require the assistance of more than one attendant. In addition, group riding occurs in less than 5 percent of Rehab's business. With respect to service rendered pursuant to agreements, Rehab assesses the passengers a flat rate which is comparable to the rates set forth hereinbefore.

Rehab submitted a summary statement of revenues and revenue deductions for the period October 31, 1974 to May 31, 1975. That statement indicates operating revenues \$72,344, cost of sales \$41,242 and other expenses \$30,051. The net income for the period was \$1,051. Rehab also submitted

a statement projecting revenues and revenue deductions for the 12 month period ending September 30, 1976 at the rates in effect during the prior period. That statement indicates operating revenues \$200,000, cost of sales \$152,800 and other expenses \$78,680. The result would be a \$31,480 loss. Rehab submits that an increase in the response call from the current \$12 rate to the requested \$13 rate would yield revenues sufficient to enable it to realize a fair return.

The Commission believes that the proposed schedule of rates would be compensatory. The Commission also accepts the use of flat rates with respect to the current transportation agreements between Rehab and VA, and Rehab and DVR. The Commission finds that the proposed rate structure, including the flat rate charges, is just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

An additional matter was considered at the hearing and deserves discussion herein. Rehab requested that the flat rates set forth in the private agreements not be publicly disclosed because it bids for these contracts. Rehab believes that disclosure of the rates would put it at a competitive disadvantage.

The Commission must, of course, be aware of the rates in accordance with provisions of the Compact, Title II, Article XII, Section 5 and 6. However, the question here presented is whether at the request of the carrier, the Commission should treat rate information as confidential. In the case of contract operations, the Commission believes that such a request may be granted if the carrier shows good cause and if such confidentiality is not inconsistent with the public interest.

The Commission believes that good cause for the request exists in the possibility that the rate information, if publicly available, could conceivably be used against Rehab competitively. The Commission further believes that confidentiality of contract rates is not inconsistent with the public interest in that the rate payer, being a party

to the contract, is already aware of the rates and would gain no further information through a tariff. Besides rate information, a tariff bears other information of a technical and administrative nature. A tariff also contains information of interest and importance to the users of the service (in this case the riders, as opposed to the rate payer), such as rules, regulations and practices applicable to the actual transportation service. The Commission shall require Rehab to file, in accordance with Title II, Article XII, Section 5 of the Compact and WMATC Regulation 55, a tariff for each contract rate. These tariffs will be public documents. However, with respect to the rates, these tariffs may state that the rates are held confidential pursuant to this Order. Rehab will be required to file copies of its contracts and full detail of the rates either as part of its contracts or separately. These rates will be treated as confidential, except as part of a formal proceeding where the Commission considers disclosure to be in the public interest.

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. 888 of Rehab Transportation, Inc., be, and it is hereby, granted.

2. That Rehab Transportation, Inc., be, and it is hereby, issued Certificate of Public Convenience and Necessity No. 30, as attached hereto and made a part hereof.

3. That Rehab Transportation, Inc., be, and it is hereby, directed to file two copies of WMATC Tariff No. 1 in accordance with the authority granted herein, together with two copies of any contract referred to in said tariff, such tariff to be effective upon acceptance by the Executive Director.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 30

REHAB TRANSPORTATION, INC.
ROCKVILLE, MARYLAND

By Order No. 1526 of the Washington Metropolitan Area Transit Commission issued March 30, 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. 1526.

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.

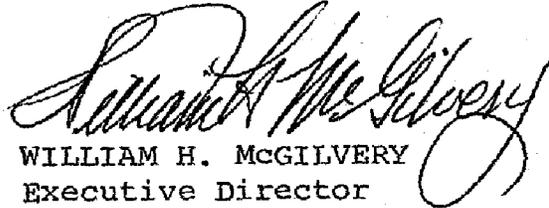
IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, limited to handicapped or disabled persons together with their baggage and attendants and not including sightseeing or pleasure tours, between points within the Metropolitan District. RESTRICTED to the performance of such operations in vehicles with a seating capacity of fifteen passengers excluding the driver.

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