

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1559

IN THE MATTER OF:

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Application of DAWSON'S)	
CHARTER SERVICE, INC.,)	Served May 21, 1976
for Temporary Authority)	
to Perform Regular Route)	Application No. 919
Operations - Montgomery)	
Village)	
)	
Application of DAWSON'S)	
CHARTER SERVICE, INC.,)	Application No. 920
for Certificate of Public)	
Convenience and Necessity)	Consolidated
to Perform Regular Route)	
Operations - Montgomery)	Docket No. 313
Village)	
-----)	
Application of MONTGOMERY)	
VILLAGE TRANSIT COMPANY)	Application No. 921
for Certificate of Public)	
Convenience and Necessity)	Docket No. 314
-----)	
Application of THE GRAY)	
LINE, INC., for Certificate)	Application No. 922
of Public Convenience and)	
Necessity to Perform Regular)	Docket No. 315
Route Operations - Montgomery)	
Village)	
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By Order No. 1505, served February 19, 1976, the Commission, inter alia, set for public hearing an application by Blue Lines, Inc., (Blue Lines) to abandon its regular route operations between Montgomery Village, Md., and Washington, D. C., and directed that any carrier desiring to provide alternative service to that sought to be abandoned by Blue Lines file an application. 1/ In response to the Commission's directive, three carriers filed four separate applications. 2/ By Order No. 1532, served April 5, 1976, the Commission granted Blue Lines' application to abandon the Montgomery Village regular route operation to be effective May 15, 1976, unless otherwise ordered. By Order No. 1555, served May 10, 1976, Blue Lines' operation was extended through May 28, 1976.

Pursuant to Order No. 1511, served March 11, 1976, a public hearing was held on April 6 and 7, 1976, concerning Application No. 920 of Dawson's Charter Service, Inc. (Dawson). 3/ No formal party appeared in opposition.

1/ Prior to the issuance of that order, the Commission had received Application No. 908 of Suburban Transit Company (Suburban) for a certificate of public convenience and necessity to transport passengers, over irregular routes, in special operations, between Montgomery Village, Md., and Washington, D. C. By Order No. 1510, served March 11, 1976, the Commission scheduled that application for public hearing. At the time of the public hearing, Suburban voluntarily withdrew its application. The Commission dismissed without prejudice Application No. 908 by Order No. 1544, served April 29, 1976. Accordingly, no further discussion of Suburban will be set forth in this order.

2/ Dawson's Charter Service, Inc., filed separate applications for temporary authority and a certificate of public convenience and necessity. The Commission shall consider and discuss herein only the permanent authority application. The temporary authority application shall be considered moot and will be dismissed without further comment or discussion.

3/ The description of Dawson's application set forth on pages 1, 2 and 3 of Order No. 1511 are incorporated herein without further comment.

Pursuant to Order No. 1512, served March 11, 1976, a public hearing was held on April 6 and 7, 1976, concerning Application No. 921 of Montgomery Village Transit Company (M. V. Transit). 4/ At the hearing, a motion was granted separating for hearing purposes that portion of Application No. 921 seeking authority to transport passengers and baggage between Montgomery Village, Md., and Washington, D. C., from that portion of Application No. 921 seeking authority to perform charter operations and special operations. 5/ No formal party appeared in opposition to the former portion of Application No. 921.

Pursuant to Order No. 1513, served March 11, 1976, a public hearing was held on April 6 and 7, 1976, concerning Application No. 922 of The Gray Line, Inc. (Gray Line). 6/ No formal party appeared in opposition.

Although the Commission did not formally consolidate the applications filed by Dawson, M. V. Transit, and Gray Line, it is obvious that each seeks authority in the form of a certificate of public convenience and necessity to perform the same basic service. In addition, the Commission's notice to the parties dated March 11, 1976, set forth a hearing procedure which entitled each applicant to examine

4/ The description of M. V. Transit's application set forth on pages 1, 2 and 3 of Order No. 1512 are incorporated herein without further comment.

5/ M. V. Transit voluntarily withdrew the latter portion of its Application No. 921. The Commission dismissed without prejudice that portion of Application No. 921 by Order No. 1546, served April 29, 1976. Accordingly, no further discussion of M. V. Transit's application for authority to perform special operations and charter operations will be set forth in this order.

6/ The description of Gray Line's application set forth on pages 1 and 2 of Order No. 1513 are incorporated herein without further comment.

the evidence presented by other applicants. Finally, two parties formally intervened in the proceeding, the Montgomery Village Foundation and a group of commuters using Blue Lines' current service. These intervenors did not support any particular applicant. Rather, each stressed those factors considered important with respect to the approval of the new carrier. In addition, the assistant director of the Office of Transportation Planning, Montgomery County Department of Transportation, expressed the desire for improved commuter trunkline service between Montgomery County, Md., and the District of Columbia.

For the purpose of clarity, the Commission will decide each of these applications at the same time, discuss each of the three applicants and the position of the intervenors, grant only one of the applications, and dismiss the other applications.

DAWSON

Dawson holds Certificate of Public Convenience and Necessity No. 9 issued by this Commission. A summary of that Certificate is set forth in Order No. 1511, served March 11, 1976. Dawson is authorized to render charter service between points within a portion of the Metropolitan District. Dawson also holds authority issued by the State of Maryland to perform transportation for hire in motor coaches between points within that State. In addition, Dawson operates regular route school bus service for two schools in Montgomery County, Md., and performs charter operations for various school groups. The school bus service is excepted from the regulatory province of this Commission. See Compact, Title II, Article XII, Section 1(a)(3).

Dawson currently owns and operates five motor coaches and seven school buses. It employs ten full-time drivers and twenty part-time drivers. Dawson has two mechanics to maintain the vehicles. Dawson also employs a bookkeeper and a bus cleaner. It owns a garage-office facility in Sandy Spring, Md.

Dawson proposes initially to operate the scheduled trips now being operated by Blue Lines. The size of the equipment and the number of vehicles to be used would depend upon the passenger demand on each of the scheduled trips. Dawson currently owns and operates three 41 passenger motor coaches, a 45 passenger motor coach, and a 49 passenger motor coach. Each of these vehicles would be radio-equipped. It has a commitment to acquire two used motor coaches if this application is approved. In this regard, Dawson projects the Montgomery Village operation will eventually require six to eight motor coaches. Dawson would not use school bus equipment in the Montgomery Village operation. Dawson would train drivers in the routes to be operated and would attempt to assign a driver permanently to each route. Dawson stated that its primary transportation commitment would be to serve the commuting needs of persons living in Montgomery Village, Md. To that extent, Dawson indicated that it would not charter its motor coaches to a group if there existed the possibility that insufficient equipment would be available to serve the needs of the Montgomery Village commuters. He would personally oversee the proposed operation.

Dawson submitted a balance sheet as of February 29, 1976, and an income statement covering the period October 1, 1975 to February 29, 1976. The balance sheet reflects total assets \$93,413, including current assets \$13,314 and fixed assets \$63,103, current liabilities \$53,579, and long term debt \$40,113. For the period October 1975 through February 1976, Dawson generated \$77,986 total revenues, divided among bingo revenue \$6,480, school revenue \$30,075, school charter \$31,564, and other charter \$9,867, and incurred \$74,881 total operating expenses. These statements are based on a cash accounting system.

Dawson submitted a statement projecting revenues and revenue deductions to be derived from the Montgomery Village operation for a twelve-month period. The statement is based upon a three motor coach operation with forty passengers per coach. Dawson has proposed a \$15 commuter ticket which would entitle the holder to ten trips within a 30 day period. Dawson also has proposed a \$2 one-way ticket. Dawson would

station a ticket salesperson in Montgomery Village on Mondays and Tuesdays for the purpose of selling tickets. Dawson's drivers would have tickets for sale. The statement projects \$93,600 revenues and \$81,058 revenue deductions.

Dawson is a family operation. By design, it has remained a small carrier. Two supporting witnesses attested to its position among bus operators as a fine carrier whose management is dedicated to providing the public with the best service possible.

M. V. TRANSIT

M. V. Transit holds no authority from this Commission or any other regulatory agency. It is owned and would be operated by an individual. It currently has no employees other than the owner Donald Eugene Lurty. It has no garage or office facilities. It does have available for performance of the Montgomery Village operation five motor coaches. However, the record is unclear as to the ownership of the motor coaches and the statement of financial position, submitted as part of the application, reflects the five motor coaches and a pickup truck as assets and a \$20,000 note payable liability.

M. V. Transit proposes to replace the service currently being provided by Blue Lines. It initially would operate the same scheduled service. M. V. Transit would attempt to employ any operators dismissed by Blue Lines as a result of the abandonment proceeding and would train the drivers in the routes to be operated. M. V. Transit stated that its primary transportation commitment would be to serve the commuting needs of persons living in Montgomery Village, Md.

M. V. Transit submitted a statement projecting revenues to be derived from the Montgomery Village operation. The statement is based upon 240 rides per day. M. V. Transit has proposed a \$12 weekly pass, a \$1.75 one-way fare from Montgomery Village, Md., to the District of Columbia, or return, a \$1.40 one-way fare from Montgomery Village, Md.,

to Bethesda, Md., or return, a \$1.25 one-way fare from Montgomery Village, Md., to East-West Highway in Maryland, or return, and a \$1.40 one-way fare from Quince Orchard Road in Maryland to District of Columbia, or return. M. V. Transit projects \$75,000 in annual revenues from this fare structure.

GRAY LINE

Gray Line holds Certificate of Public Convenience and Necessity No. 12 issued by this Commission. A summary of that Certificate is set forth in Order No. 1513, served March 11, 1976. Gray Line is authorized to render charter operations, special operations, and regular route race track service within the Metropolitan District. Gray Line holds a Certificate of Public Convenience and Necessity issued by the Interstate Commerce Commission (ICC). Pursuant to a permit also issued by the ICC, Gray Line currently renders commuter service pursuant to a contract with a community group between points within the Metropolitan District and points beyond the Metropolitan District.

Gray Line owns and operates thirty-six motor coaches, including twenty-three of the type that it intends to use in the Montgomery Village service. It employs approximately 100 people, including 45 full-time drivers, 5 full-time supervisors, 14 members of the administrative and maintenance staff, 7 mechanics and 6 service personnel. It owns a garage facility in the northeast section of the District of Columbia and maintains a separate administrative office.

Gray Line proposes initially to operate the scheduled trips being operated by Blue Lines and a revenue trip from Quince Orchard, Md., to the District of Columbia in the early evening. The size of the equipment to be used would depend upon the passenger demand on each of the scheduled trips. Gray Line currently operates seven 44 passenger motor coaches, two 45 passenger motor coaches, six 49 passenger motor coaches, and eight 53 passenger motor coaches. Each of these vehicles would be radio-equipped.

Gray Line submitted a balance sheet as of December 31, 1975, and a statement of operations and retained earnings for the year ended December 31, 1975. The balance sheet reflects total assets \$918,549, including current assets \$373,225 and net property, plant and equipment \$517,768, current liabilities \$307,332, and long-term debt \$101,768. For the year ended December 31, 1975, Gray Line generated \$2,919,107 total revenues, divided among sightseeing and charter revenue \$2,616,064, route service revenue \$261,397, and other revenue \$41,646, and incurred \$3,132,845 total costs and expenses.

Gray Line submitted a statement projecting revenues and revenue deductions to be derived from the Montgomery Village operation for a twelve month period. The statement projects \$129,360 revenues and \$119,218 revenue deductions. This projection embraces three separate phases. Phase one would be a three month period during which Gray Line estimates that it will operate three motor coaches carrying an average of forty passengers per vehicle. Phase two also would be a three month period and Gray Line estimates that it will operate four motor coaches carrying an average of forty passengers per vehicle during that period. During phase three, a six month period, Gray Line estimates that five motor coaches would be operated and would carry an average of forty passengers per vehicle. Gray Line has proposed a \$15 commuter ticket which would entitle the holder to ten trips and a \$2 one-way ticket. Gray Line would sell the tickets pursuant to mail orders and through the bus riders and the bus drivers.

Gray Line is a wholly owned subsidiary of the First Gray Line Corporation headquartered in Los Angeles, Calif., within the Metropolitan District, it operates one of the largest private fleets of vehicles. However, it offers many services to the public and during the peak periods of demand for per capita sightseeing, Gray Line has been required to lease equipment for performance of that service. The record indicates that periodically Gray Line would have to lease equipment to perform other services.

INTERVENORS

Then two intervenors, Montgomery Village Foundation and a group of commuters using Blue Lines, have requested the Commission to consider the two requirements of any commuter operation, a flexible operations plan and sufficient equipment to transport the commuters. The intervenors stress the importance of a carrier's willingness and ability to provide the highest quality transportation for the commuting passengers in terms of scheduling, route design, and location of stops. The availability of equipment is important to the efficiency of the carrier in rendering these commuter operations. The carrier must have sufficient equipment and drivers to render the service and provide replacements in the event of equipment failure or driver absence.

The two intervenors also have requested the Commission to consider the willingness of the carrier to accept the recommendations of the commuting passengers. The intervenors desire a carrier which would be responsive to the requirements of the commuting passengers concerning changes in schedules and increases in the number of vehicles operated. The intervenors urge the Commission to consider the difficulties encountered by passengers who have to stand for a part or all of the long trip between Montgomery Village, Md., and the District of Columbia.

FINDINGS AND CONCLUSIONS

The findings to be made by the Commission, after hearing, 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. Essentially, 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. In addition, approval by the Commission of the proposed tariff must be based on a finding that the tariff is just, reasonable, and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. See Compact, Title II, Article XII, Section 6(a)(2).

The Commission finds that both Dawson and Gray Line are 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. With respect to M. V. Transit, the Commission finds that it is not capable of performing the proposed transportation properly. The record indicates that M. V. Transit has no employees and no facilities. Moreover, M. V. Transit does not have the financial capability to acquire the necessary equipment and facilities. Accordingly, the Commission shall not further consider the application by M. V. Transit and shall dismiss Application No. 921.

The Commission finds that there is and will continue to be a need for transportation for hire service between Montgomery Village, Md., and the District of Columbia. Accordingly, there is a need for the provision of reasonable, continuous and adequate commuter service as proposed by both Dawson and Gray Line. To this extent, the record would support a grant of either Dawson's application or Gray Line's application.

In this proceeding, the two remaining applicants are among the best carriers currently operating within the Metropolitan District. The Commission believes that either carrier would be capable of performing an adequate and satisfactory service for the commuting passengers involved in the Montgomery Village operation. The Commission must determine which application should be granted.

The Commission has based its decision upon the factors stressed by the intervenors. The Commission believes that the Montgomery Village operation would become the focal point of Dawson's entire operation, and that a close, interdependent relationship would develop between the

company and the community. The Commission believes that Dawson, because of its size and the nature of its operation, would be better able to respond to the needs of the commuting passengers and would be able to operate somewhat more efficiently and economically. Accordingly, the Commission finds that the public convenience and necessity requires the approval of Dawson's application. The Commission thus shall dismiss Gray Line's application.

The Commission finds that Dawson's projection of revenue and revenue deductions is reasonable. The Commission also finds that the proposed rate structure is just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. Accordingly, the Commission shall approve the \$15 commuter ticket entitling the holder to ten trips within a 30 day period and the \$2 one-way ticket.

With respect to the ratio of passengers to seats, the Commission's Regulation 66 provides, inter alia, that during rush hours the ratio shall not exceed 140 percent during any 30 minute period at the maximum load point on each individual line. The Commission believes that the ratio should be 120 percent with respect to the entire Montgomery Village operation. Accordingly, the Commission shall prescribe the loading standards applicable to Dawson's operation pursuant to the authority herein granted.

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

THEREFORE, IT IS ORDERED:

1. That Application No. 919 of Dawson's Charter Service, Inc., for temporary authority be, and it is hereby, dismissed as moot.

2. That Application No. 920 of Dawson's Charter Service, Inc., for certificate of public convenience and necessity be, and it is hereby, granted.

3. That Certificate of Public Convenience and Necessity No. 9 be, and it is hereby, modified as of May 30, 1976, to include the following:

REGULAR ROUTE:

Passengers, together with their baggage, express and newspapers: Between points in Washington, D. C. and Montgomery County, Maryland, restricted to the boarding and alighting of passengers along Maryland Route 124, Quince Orchard Road, Montgomery Village Avenue and within the community of Montgomery Village, Maryland, further restricted to discharge only at the National Institutes of Health in Bethesda, Maryland and points in Washington, D. C. southbound; and boarding only from points in Washington, D. C. and the National Institutes of Health in Bethesda, Maryland, northbound. From Washington, D. C. over city streets to the Maryland D. C. line, thence over Wisconsin Avenue (U. S. Highway 240) to junction Interstate Highway 270 to junction Montgomery Village Road, thence over Montgomery Village Road to junction Centerway Road, thence over Centerway Road to Montgomery Village Shopping Center roadways, thence over Montgomery Village Shopping Center roadways to junction Stedwick Road, thence over Stedwick Road to junction Montgomery Village Road to junction Maryland Highway 355, thence over Quince Orchard Road to junction Maryland Highway 124 to junction Maryland Highway 28, and return over same route.

4. That Dawson's Charter Service, Inc., be, and it is hereby, directed to file two copies of Supplement No. 1 to WMATC Tariff No. 2 in accordance with the authority granted herein, such tariff to be effective on May 30, 1976, and upon acceptance by the Executive Director.

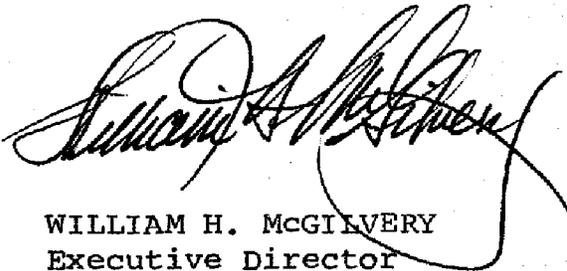
5. That Dawson's Charter Service, Inc., be, and it is hereby, directed to maintain seating capacity on its morning or evening Montgomery Village operation so that for

any consecutive 5 day period the average ratio of passengers to seats does not exceed 120 percent.

6. That Application No. 921 of Montgomery Village Transit Company for certificate of public convenience and necessity to perform regular route operations be, and it is hereby, dismissed.

7. That Application No. 922 of The Gray Line, Inc., for certificate of public convenience and necessity to perform regular route operations be, and it is hereby, dismissed.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director

