

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1588

IN THE MATTER OF:

Application of HOLIDAY TOURS,)	Served August 5, 1976
INC., for Certificate of)	
Public Convenience and Necessity)	Application No. 903
to Perform Special Operations)	Docket No. 308

By Order No. 1560, served May 24, 1976, the Commission denied Application No. 903 of Holiday Tours, Inc. (Holiday), directed Holiday to cease and desist from performing transportation for hire between points within the Metropolitan District, and directed Holiday to pay \$476.60, being the cost of the hearing, to the Commission on or before May 28, 1976. On June 23, 1976, counsel for Holiday filed a motion for extension of the statutory time for filing the application for reconsideration. On June 30, 1976, an application for reconsideration was filed. Holiday has continued to perform transportation for hire between points within the Metropolitan District and has not delivered to the Commission the amount assessed as the cost of the public hearing.

The motion for extension of the statutory time for filing the application for reconsideration sets forth that Holiday was not represented by counsel prior to the date the motion for extension was filed. That date was the last day for filing the application for reconsideration. The period within which applications for reconsideration may be filed is fixed by the Compact, and the Commission is unconvinced of its discretionary power to waive such a provision of law. However, the Commission shall give the benefit of the doubt to the applicant, grant the motion for extension of time for filing, and act upon the application for reconsideration as if it has been timely filed.

Pursuant to the requirement of the Compact, Title II, Article XII, Section 16, Holiday has specified seventeen separate errors. Each of the errors claimed as grounds for reconsideration shall be discussed hereinafter.

Holiday initially contends that the Commission has not properly described the applicant and its relationship with Holiday Gift Shops and Holiday Travel Club. According to the application for reconsideration, Holiday is a corporation with three stockholders owning an equal number of shares. However, Walter Lee Davis, the president of Holiday, testified that Holiday has ten shares of stock and that the vice-president has one share, the secretary-treasurer has one share, and the president has the remainder of the shares. The application for reconsideration then states that Walter Lee Davis does not operate Holiday Gift Shops. However, Walter Lee Davis testified that Holiday Gift Shops is a part of Holiday. The application for reconsideration also claims that the revenue from tours can be distinguished from the revenue from the gift shops. However, Walter Lee Davis testified that there was not a separate set of books for each business and that the sales revenue from Holiday Gift Shops is combined with the tour revenue from Holiday. The next claim of error is that Walter Lee Davis' son does not operate a business known as Holiday Travel Club. The application for reconsideration names the officers and stockholders of Holiday Travel Club. These officers and stockholders are the same as those for Holiday. However, Walter Lee Davis testified that the stockholders and officers of Holiday Travel Club were not the same as the stockholders and officers of Holiday.

Holiday contends that the Commission erred in stating that the witnesses testifying in support of Holiday receive commissions from Holiday. In support of its contention Holiday points to a statement in support of its application from the Director of the District of Columbia Department of Transportation. The statement referred to by Holiday is a letter dated February 19, 1976. The Director was not sponsored as a witness at the public hearing. Holiday's witnesses did receive commissions from Holiday.

The application for reconsideration claims that it is error for the Commission to consider Holiday's present number of employees and find them inadequate to handle the proposed new services. The Commission in Order No. 1560 found that there was no evidence that these employees would be sufficient to manage the proposed operations. The application for reconsideration sets forth that Holiday will hire as many employees and acquire as many vehicles as are necessary to render the proposed services in an effective and efficient manner. However, Walter Lee Davis testified that Holiday would hire drivers for its vehicles and two supervisors for the operations. None of these employees would be involved in the management of the two operations. The record contains no evidence of the expertise of the present employees or their ability to manage the proposed two operations.

Holiday states that it was error for the Commission to find that no analysis or survey of potential passengers has been performed. According to Holiday, such surveys are rarely efficacious because there have been "erroneous" projections of Bicentennial visitors to Washington. The evidence of record indicates that Holiday made no attempt to determine the potential ridership on the proposed services or the areas within the Metropolitan District wherein the potential ridership would originate. Without such information, the necessity for the proposed service, the feasibility of the proposed services and the ability of Holiday to render reasonable, continuous, and adequate service are not established.

Holiday submits that the Commission erred in finding that The Gray Line, Inc. (Gray Line) operates a scheduled pick-up service from designated hotels and motels and that Metrobus has instituted seventeen radial routes. Holiday states that Gray Line declines to pick-up from smaller facilities during the winter months and that Gray Line ceases operations on Sundays during the winter months. The record indicates that Gray Line does not operate scheduled pick-up service from smaller facilities during the winter months but does provide reservation pick-up service. Holiday then states that Metrobus has either discontinued or curtailed the radial route services. These services were designed to transport persons to the Mall area for sightseeing purposes. After the Commission's order wherein Holiday claims

The application for reconsideration claims as error the Commission's description of Holiday's proposed service. Holiday's application for reconsideration states that the service proposed is neither a bus service nor a taxicab service, that Holiday does not propose to operate a loop tour service in the Mall area, that passengers would be picked up at various points in the Metropolitan District, and that the tour would begin at the first point of interest and not at Holiday's office at Sixth and Pennsylvania Avenues, N. W., in the District of Columbia. However, Walter Lee Davis testified that Holiday would pick-up passengers at any hotel or motel and transport them to Holiday's office. From there, according to Walter Lee Davis' testimony, the passengers could proceed as they desired throughout the District of Columbia. Walter Lee Davis also testified that Holiday would transport passengers from the office to points on and about the Mall. The passengers would disembark at a building and later Holiday would pick-up those passengers and transport them to another building where the passengers again would disembark. The system would be operated as a continuous relay of people over a described circuit bordering the Mall area. Walter Lee Davis testified that the initial stop on the tour circuit would be the United States Capitol Building unless it was congested and then the initial stop would be the Lincoln Memorial. It is clear from both the application for reconsideration and the testimony of Walter Lee Davis that the proposed operation defies convenient description. In fact, a large part of the public hearing in this case was devoted to determining exactly what this applicant was seeking. For discussion in its order, the Commission consistently referred to a portion of the proposal as a "loop tour service". No error has been made here by the Commission.

Holiday's application for reconsideration claims as error the Commission's description of the equipment owned by Holiday Travel Club. Apparently, Holiday does not own any equipment. Rather, Holiday Travel Club has a lease agreement with Holiday to provide five motor coaches and would be willing to lease an additional 20 passenger minibus, a 17 passenger bus, and a station wagon. Then the application for reconsideration sets forth that Holiday would acquire five more 53 passenger motor coaches. Neither the source of the funds nor the method of acquisition is set forth in the record.

error, Metrobus did curtail service. Therefore, there was no error in the order. The reason for the service curtailment was lack of patronage, even at Metrobus's fare which was substantially lower than the fare proposed by Holiday. Had this been the fact at the time of the Commission's order, the failure of the Metrobus service would still have been relevant in the same context -- the probable need for the service.

The major error claimed by Holiday is the Commission's findings that Holiday is not capable of rendering the proposed service, that it does not have sufficient personnel and suitable equipment, and that the financial structure of Holiday would not provide an adequate basis for the acquisition of the necessary and essential facilities, equipment and personnel. Apparently, Holiday is willing to post a reasonable bond with the Commission to guarantee its performance. The record contains no evidence of the management ability of Walter Lee Davis or the other officers of Holiday. There is no evidence of record that Holiday has made any analysis of the personnel and equipment required to render a reasonable, continuous and adequate service. The record indicates that Holiday owns no equipment and that its asset valuation has been based upon the judgement of Holiday's accountant who was never sponsored as a witness although Walter Lee Davis said he would be. The assets of Holiday are also those of Holiday Gift Shops and basically consist of the leasehold interests of Holiday Gift Shops, the showcases and furniture of Holiday Gift Shops and the stock and trade items of Holiday Gift Shops. The record does not present a basis for determining that Holiday has the financial ability to institute and to maintain the proposed operations as viable transportation services.

Holiday did not make a satisfactory case for its proposal, and its application was denied. The errors claimed on reconsideration appear to be largely discrepancies between the alleged facts as presented in the application for reconsideration and the same alleged facts as presented in the testimony of Walter Lee Davis.

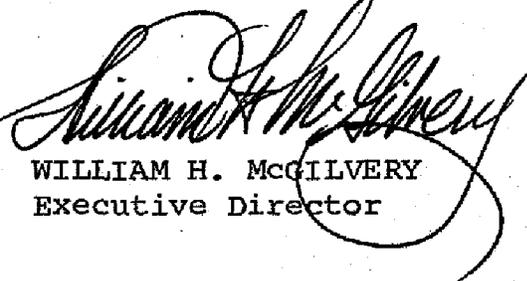
The Commission has reviewed Holiday's application for reconsideration. The Commission perceives no basis for recon-

sidering its Order No. 1560. Accepting each representation by Holiday merely for the purpose of determining whether to grant the application for reconsideration, the Commission would find that Holiday is not fit, willing and able to perform the proposed transportation properly and conform to the provisions of the Compact and the rules, regulations, and requirements of the Commission thereunder and that the proposed services "must be or will be required" by the public convenience and necessity. Accordingly Holiday's application for reconsideration will be denied.

THEREFORE, IT IS ORDERED:

1. That the motion for extension of the statutory time for filing the application for reconsideration, filed by Holiday Tours, Inc., be, and it is hereby, granted.
2. That the application for reconsideration of Order No. 1560, served May 24, 1976, filed by Holiday Tours, Inc., be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director