

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1602

IN THE MATTER OF:

Served September 7, 1976

Application of McMICHAEL SCHOOL BUS)
SERVICE, INC., for Certificate of)
Public Convenience and Necessity to)
Perform Charter Operations)

Application No. 923

Docket No. 318

On August 27, 1976, McMichael School Bus Service, Inc. (McMichael) filed an application for reconsideration of Order No. 1593, served August 13, 1976, together with a request not to stay that order, a request for temporary authority to perform charter service for Madeira School in Fairfax County, Virginia, a proposed schedule of rates applicable to school charters together with a request that the tariff become effective in less than the statutory 30-day period, and an application for a certificate of public convenience and necessity to transport school children to and from schools located in Prince George's County, Maryland, together with a request for temporary authority. The Commission shall consider each of these matters separately in this order.

APPLICATION FOR RECONSIDERATION

The application for reconsideration specifies as error the Commission's determination that the record does not support a finding that school groups would need charter service from points within the counties of Arlington and Fairfax and the cities of Alexandria, Falls Church and Fairfax, Virginia, to points within the District of Columbia, Montgomery County, Maryland, and Prince George's County, Maryland, and return. McMichael submits that the Commission, sua sponte, determined in Order No. 1593 that all of McMichael's operations rendered in school bus type vehicles would be within its jurisdiction. McMichael states that it did not realize at the time of the hearing that the Commission would subject to regulation McMichael's previously exempt school bus transportation of school children and teachers to or from public or private schools. As a result, McMichael did not offer any probative evidence of the need for the transportation of school children and teachers, in charter operations, over irregular routes, between schools in Northern Virginia and points in the District of Columbia, Montgomery County and Prince George's County, Maryland.

The Commission agrees that McMichael should be entitled to an opportunity to submit evidence of the alleged need in Northern Virginia for

the provision of charter service to or from schools for school groups. The Commission thus will schedule for further hearing Application No. 923 for the purpose of receiving evidence pertaining to the provision of charter service for use by school children and teachers, over irregular routes, from points within the counties of Arlington and Fairfax and the cities of Alexandria, Falls Church and Fairfax, Virginia, to points within the District of Columbia, Montgomery County, Maryland, and Prince George's County, Maryland, and return. The Commission shall not permit the submission of probative evidence with respect to groups not composed of school children and teachers.

The request not to stay Order No. 1593 shall be granted. McMichael shall be permitted to render charter operations pursuant to the authority issued in Order No. 1593. Any charter operations so performed by McMichael's during the pendency of the application for reconsideration shall be deemed to be lawfully rendered.

TEMPORARY AUTHORITY

McMichael submitted as part of its application for reconsideration a request for temporary authority to render charter operations for school groups, over irregular routes, between Madeira School, 8328 Georgetown Pike, Greenway, Fairfax County, Virginia, and points in the District of Columbia. The request is supported by an affidavit by the co-curriculum director at the Madeira School. The affidavit states that 317 students require transportation each Wednesday during school sessions to attend off-campus volunteer jobs in the District of Columbia. The affidavit also states that McMichael has been providing such transportation service for the past three years in an extremely dependable and reliable manner. Madeira School apparently would require the use of five buses each Wednesday for the purpose of making approximately ten trips.

The Commission may, in its discretion and without hearing or other proceedings, authorize a carrier to provide a service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. See Compact, Title II, Article XII, Section 4(d)(3). The Commission finds that students and teachers travelling from Madeira School to points in the District of Columbia, and return, have an immediate and urgent need for transportation. Accordingly, the Commission shall grant McMichael temporary authority to transport students and teachers of Madeira School, in charter operations, over irregular routes, from Madeira School, 8328 Georgetown Pike, Greenway, Fairfax County, Virginia, to points in the District of Columbia, and return.

SCHOOL CHARTER RATES

By Order No. 1593 the Commission authorized McMichael to transport passengers, in charter operations, round-trip or one-way, over irregular

routes, from points within the District of Columbia and the counties of Montgomery and Prince George's, Maryland, to points within the Metropolitan District, and return, restricted to the performance of such transportation in school bus vehicles only. The Commission approved in Order No. 1593 a proposed rate structure applicable to such charter operations. That rate structure is a \$70 minimum charge representing one hour garage time and four hours of actual use, an additional \$16 per hour charge for each hour in excess of four hours use, and a \$45 one-way transfer charge.

McMichael has requested the Commission to approve a tariff supplement setting forth rates applicable to school charters. This tariff supplement differs from the rate structure approved in Order No. 1593 in that the charge for five hours is \$5 less for school charter service and \$1.50 per hour less for additional hours. The proposed tariff supplement thus specifies the following rates for school charters. The initial charge would be \$65 for one hour garage time and four hours actual use. The charge for each additional hour would be \$14.50 per hour. The one-way transfer charge would be \$45.

McMichael has submitted justification for the proposed tariff supplement. First, the proposed school charter rates are the same as those charged by McMichael prior to the Commission having jurisdiction over the entire operation rendered by McMichael. Second, these rates have been used by many schools in determining their 1976/1977 school year budgets. Third, an increase in the rates for school charters would result in many schools not having sufficient funds to afford charter service for their students.

The Commission shall approve the proposed tariff supplement. The proposed school charter rate structure is just, reasonable, and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. Obviously, the approved rate structure shall be applicable to school charters rendered pursuant to Certificate of Public Convenience and Necessity No. 24 and the temporary authority granted hereinbefore. In addition, the Commission shall grant McMichael's request for waiver of the statutory 30-day period set forth in the Compact, Title II, Article XII, Section 5(e).

APPLICATION FOR CERTIFICATE
OF PUBLIC CONVENIENCE AND NECESSITY

McMichael has filed an application for a certificate of public convenience and necessity authorizing the transportation of school children, over irregular routes, to and from private schools. McMichael has been providing bus service for students in various private schools for approximately eleven years. Presently, McMichael has made arrangements with six schools to provide such service for the current school year commencing

September 7, 1976. These schools are St. Ignatius Parochial School, 2317 Brinkley Road, Oxon Hill, Maryland; St. John's School, 8914 Old Branch Avenue, Clinton, Maryland; St. Columba Roman Catholic School, 7800 Livingston Road, Oxon Hill, Maryland; Holy Family School, 2210 Calaway Street, Hillcrest Heights, Maryland; LaReine High School, 5100 Silver Hill Road, Suitland, Maryland; and Bishop McNamara High School, 6800 Marlboro Pike, Forestville, Maryland.

McMichael prepares routes for each school approximately one month before the school year begins. These routes are based on the prior year's schedule of stops and prospective stops for the next school year. The charges for the school transportation are collected at the beginning of each school month by the drivers in exchange for a printed pass. The pass then must be shown each time the student boards the bus.

McMichael has established a time and point schedule for each of the schools it seeks to serve. For LaReine High School and Bishop McNamara High School, it proposes to operate two routes which will serve both schools. For St. Columba School, McMichael has proposed two separate routes. McMichael has set forth three routes to transport students to St. Ignatius School. Holy Family School will be served with two separate routes. McMichael has delineated one route for service at St. John's School. McMichael has proposed tariffs applicable to the proposed school transportation. For St. Ignatius Parochial School, St. Columba Roman Catholic School, Holy Family School, and St. John's School, McMichael has proposed the same monthly charges. These rates would be \$14.50 for one child, \$19.50 for two children, \$22.50 for three children, and \$24.50 for four children or more. With respect to LaReine High School and Bishop McNamara High School, McMichael has proposed a \$22 per month per child rate.

Title II, Article XII, Section 4(b) of the Compact mandates that, whenever an application is made for a certificate of public convenience and necessity, 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." Pursuant to this mandate, the Commission shall schedule a public hearing to develop an appropriate record. McMichael 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.

The Commission shall require McMichael to submit and be prepared to support with a competent witness a separate statement projecting

revenues and revenue deductions for each school for the 1976/1977 school year. McMichael shall be directed to file six (6) copies of the statements with the Commission and serve one copy on each party of record on or before Wednesday, October 6, 1976. McMichael shall be prepared to present evidence that public convenience and necessity require the proposed service.

McMichael has requested temporary authority to render the proposed transportation service for the six specified schools. McMichael states that approximately 460 students will ride these buses daily to and from the schools. These students, for the most part, do not have alternative means of transportation to and from school. There is no other carrier which can provide this service commencing September 7, 1976.

The Commission may, in its discretion and without hearing or other proceedings, authorize a carrier to provide a service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need. See Compact, Title II, Article XII, Section 4(d)(3). The Commission finds that students travelling to and from the specified schools have an immediate and urgent need for the proposed transportation. Accordingly, the Commission shall grant McMichael temporary authority to transport students, over irregular routes, from points in the Metropolitan District to St. Ignatius Parochial School, St. John's School, St. Columba Roman Catholic School, Holy Family School, La Reine High School, and Bishop McNamara High School, and return. Of course, the grant of temporary authority creates no presumption that corresponding permanent authority will be granted.

THEREFORE, IT IS ORDERED:

1. That the application for reconsideration of Order No. 1593, served August 13, 1976, filed by McMichael School Bus Service, Inc., be, and it is hereby, granted.
2. That Application No. 923 of McMichael School Bus Service, Inc., for a certificate of public convenience and necessity to perform charter operations be, and it is hereby, scheduled for further public hearing to commence Monday, October 11, 1976, at 9:30 A. M., in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.
3. The request by McMichael School Bus Service, Inc., not to stay Order No. 1593 pending a determination of the application for reconsideration be, and it is hereby, granted.
4. That McMichael School Bus Service, Inc., be, and it is hereby, granted temporary authority to transport students and teachers of Madeira School, in charter operations, over irregular routes, from Madeira School, 8328 Georgetown Pike, Greenway, Fairfax County, Virginia, to points in the District of Columbia, and return, restricted to the performance of such transportation in school bus vehicles only.

5. That the school charter supplement to WMATC Tariff No. 1 of McMichael School Bus Service, Inc., be, and it is hereby, approved effective September 7, 1976.

6. That McMichael School Bus Service, Inc., be, and it is hereby, granted temporary authority to transport students, over irregular routes, from points in the Metropolitan District to St. Ignatius Parochial School, 2317 Brinkley Road, Oxon Hill, Maryland; St. John's School, 8914 Old Branch Avenue, Clinton, Maryland; St. Columba Roman Catholic School, 7800 Livingston Road, Oxon Hill, Maryland; Holy Family School, 2210 Calaway Street, Hillcrest Heights, Maryland; LaReine High School, 5100 Silver Hill Road, Suitland, Maryland; or Bishop McNamara High School, 6800 Marlboro Pike, Forestville, Maryland, and return.

7. That McMichael School Bus Service, Inc. be, and it is hereby, required to file an appropriate tariff supplement specifying rates for the transportation of students to and from the schools hereinbefore specified with respect to the grant of temporary authority to be effective September 7, 1976.

8. That unless otherwise provided by order of the Commission the temporary authorities granted hereinbefore in paragraphs 4 and 6 shall become effective Tuesday, September 7, 1976, and shall remain in effect through Saturday, March 5, 1977.

9. That the application of McMichael School Bus Service, Inc., for certificate of public convenience and necessity to perform school operations be, and it is hereby, scheduled for public hearing to commence Monday, October 11, 1976, at 9:30 A. M., as part of the further hearing scheduled in paragraph 2 hereinbefore, in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

10. That McMichael School Bus Service, Inc., be, and it is hereby, directed to publish once in a newspaper of general circulation in the Metropolitan District and post until the public hearing in each of its vehicles notice of the application and hearing in the form prescribed by the staff of the Commission no later than Friday, September 17, 1976, and present at the hearing a certificate of publication from the selected newspaper and a certificate of posting.

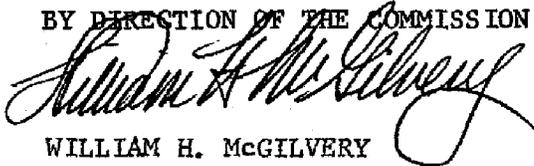
11. That six (6) copies, the original to be submitted at the hearing, of the statements required hereinbefore be filed by McMichael School Bus Service, Inc., with the Commission and one copy served on each party of record on or before Wednesday, October 6, 1976.

12. 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

Friday, October 1, 1976, and shall mail a copy of such protest or such notice to counsel of record for McMichael School Bus Service, Inc., Philip N. Margolius, Esquire, Suite 1105 Bender Building, 1120 Connecticut Avenue, N. W., Washington, D. C. 20036.

13. That McMichael School Bus Service, 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 Commission, Room 316, 1625 I Street, N. W., Wasington, D. C. 20006, on or before Wednesday, October 6, 1976.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director