

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1614

IN THE MATTER OF:

Served September 29, 1976

Application of NATIONAL BUS LEASING,)
INC., for Certificate of Public Con-)
venience and Necessity to Perform)
Charter Operations Pursuant to)
Contract)

Application No. 963

Docket No. 348

The background of this proceeding is set forth in Order No. 1599, served August 31, 1976, and Order No. 1613, served September 24, 1976.

On September 27, 1976, National Bus Leasing, Inc. (National), filed a petition for reconsideration of Order No. 1613, asserting that the "Commission erred when it cancelled National's temporary authority to operate the contract charter operations pursuant to the terms of an award/contract given them by ERDA /U. S. Energy Research and Development Administration/ effective October 1, 1976."

Notwithstanding the argument of National, the Commission perceives no error in its Order No. 1613. National's basis for the alleged error is an award/contract effective October 1, 1976, which was not in evidence and, to the Commission's knowledge, did not exist on September 24, 1976, when Order No. 1613 was issued. Accordingly, National's petition for reconsideration shall be denied.

Attached to National's petition for reconsideration were three exhibits. Exhibit I is a letter from ERDA to National indicating that National's was the apparent low bid on the contract. This letter was already a part of the record in this proceeding. Exhibits II and III are new to this record. Exhibit II is an award/contract from ERDA to National, effective October 1, 1976. Exhibit III is an affidavit of an official of ERDA indicating, among other things, that ERDA has entered into a contract with National to provide the proposed service, and that the term of the contract is October 1, 1976, through August 31, 1977. The affidavit also asserts that the provision of such transportation service is urgently required by ERDA.

In Order No. 1613, the Commission stated:

"Now, as when this proceeding was begun, Atwood has a contract with ERDA which will expire at the end of the month. National seeks authority to operate pursuant to

a contract with ERDA. Again, there is little time for action and in view of finding of need, it would be inappropriate to permit a lapse of service. The Commission urges the parties and ERDA to come forward at the earliest possible time with a reliable expression of ERDA's intention in this matter."

The Commission now has adequate information upon which to proceed.

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 ERDA has an immediate and urgent need to transport persons travelling on official government business, government employees, and others travelling for personal convenience between its offices at 20 Massachusetts Avenue, N. W., Washington, D. C., and its office near Germantown, Maryland. The Commission also finds that there would be no carrier service operating between these points, as of October 1, 1976, capable of meeting ERDA's need for the proposed regularly scheduled shuttle bus service. In order to enable the provision of this transportation service, the Commission shall grant National temporary authority to perform its contractual obligations. Of course, the grant of temporary authority creates no presumption that corresponding permanent authority will be granted. The public hearing on National's application for a certificate of public convenience and necessity shall commence as scheduled by Order No. 1599.

THEREFORE, IT IS ORDERED:

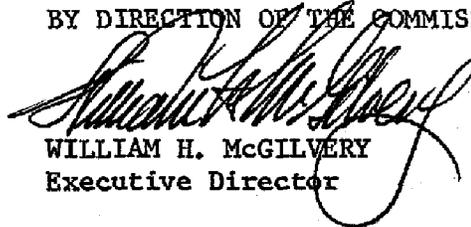
1. That the petition for reconsideration filed by National Bus Leasing, Inc., on September 27, 1976, be, and it is hereby, denied.

2. That National Bus Leasing, Inc., be, and it is hereby, granted temporary authority to transport persons travelling on official government business, government employees, and others travelling for personal convenience, together with baggage, over irregular routes, between the Energy Research and Development Administration office at 20 Massachusetts Avenue, N. W., Washington, D. C., and the Energy Research and Development Administration office near Germantown, Maryland, which is situated adjacent to the intersection of Interstate Highway 270 and Maryland State Highway Route 118, pursuant to contract with the Energy Research and Development Administration.

3. That unless otherwise provided by order of the Commission the

temporary authority granted herein shall become effective Friday, October 1, 1976, and shall remain in effect through Tuesday, March 29, 1977.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director

SHANNON, Commissioner, dissents.

I differ with the majority opinion to the extent that I would not have granted temporary authority on the basis of this record as it now exists. I would exercise the discretion permitted the Commission by the Compact, Title II, Article XII, Section 4(d)(3), by holding the evidentiary hearing prior to determining whether temporary authority should be granted. Certainly, the single fact that we have a low bidder for a contract from a federal agency is not determinative of the issues in this proceeding. The facts in this proceeding have not been as free-flowing or as well explained as they could have been, and I would therefore develop a complete record before making any judgment concerning which carrier should perform the operations involved.