

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1649

IN THE MATTER OF:

Application of EDWARDS TRUCKING )	Served February 8, 1977
COMPANY, INC., for Certificate )	
of Public Convenience and )	Application No. 971
Necessity to Perform Charter )	
Operations Pursuant to Contract )	Docket No. 357

By Application No. 971, filed October 13, 1976, and supplemented October 18, 1976, Edwards Trucking Co., Inc. (Edwards), seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform charter operations pursuant to contracts with the United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA) and the United States Nuclear Regulatory Commission (NRC). Edwards would transport persons traveling on official government business, government employees, and mail over irregular routes between the points and at the rates specified in Order No. 1617, served November 5, 1976, which order is incorporated by reference herein.

Pursuant to said order, a public hearing on this matter was held on December 7, 1976. Applicant's president testified that Edwards has been performing the proposed services since July 1, 1976. When Edwards became aware that authority from this Commission was required, it filed this application, and also sought corresponding temporary authority which became effective November 8, 1976.

Edward's president further testified that approximately 10 to 50 people utilize its shuttle service between the two facilities of NRC. The witness could not estimate with precision the number of persons transported pursuant to the NOAA contract, but did testify that the route extending between Rockville and Silver Spring, Md., was heavily utilized. Passenger use of the other two routes [ (a) Between Suitland, Md., and Washington, D. C., and (b) between Bethesda, Md., and Washington, D. C. ] is somewhat more sporadic, although regular schedules are maintained on all routes for the transportation of mail and government documents as well as passengers. Applicant operates suitable equipment including a 16-passenger bus, three 15-passenger vans, and Carry-all and Econoline vans, all of which are used in performing the proposed operations. Edwards employs a full-time mechanic for routine maintenance, and has arrangements with a repair shop to perform non-routine maintenance. After the hearing, applicant provided evidence that it maintains appropriate insurance for the protection of the public as required by Commission Regulation 62-03(a).

Applicant's vice president-secretary and its accountant testified regarding Edwards' financial fitness, and revised revenue and expense projections were submitted as a late-filed exhibit. During its last fiscal year, Edwards' gross revenue exceed \$1 million, primarily from moving and hauling operations not subject to regulation by this Commission. Applicant's balance sheet indicates current assets and current liabilities of \$177,730 and 94,902, respectively, and its overall net worth as of June 1976 is \$82,828.

With respect to the NRC operation, applicant expects to incur a net loss of \$9,367 in the first year of operation. An initial annual loss of \$14,160 is also projected for the NOAA operation, but comparison of the data on applicant's late-filed exhibit with testimony elicited at the hearing shows that the revised projection overstates income by \$12,480, thereby implying a corrected net annual loss of

\$26,640. Applicant's vice president-secretary stated, however, that combined real losses should be less than \$36,007, because of anticipated modifications to the contracts. In addition, it appears that some of the expense projections, which were adjusted for inflation and estimated cost increases, may be excessive. Edwards does anticipate suffering some loss, but states that it has made a business decision to do so in order to obtain a competitive advantage with respect to future contract awards and modifications. Applicant believes that its income from other sources will be sufficient to offset any losses that may be incurred in passenger transportation operations, and it appears that Edwards' net worth is sufficient to absorb such losses for the periods covered by the involved contracts.

#### DISCUSSION AND CONCLUSIONS

The Commission finds that Edwards has sustained its statutory burden of proof and that the application should be granted. The record shows that services performed under temporary authority has been satisfactory and that beneficiaries of the two contracts regularly avail themselves of such services. Accordingly, a grant of the application is required by the public convenience and necessity.

With respect to fitness, we believe that applicant has demonstrated a desire to conduct its operations in conformance with regulatory requirements and inasmuch as its prior unauthorized operations were not conducted in willful derogation of the Compact and Commission rules and regulations, they should not stand as a bar to a grant of authority herein. The services proposed are operationally feasible, and we are also of the opinion that Edwards is financially fit to conduct such operations, although initial losses are expected. Edwards entered into contracts with NOAA and NRC with the expectation of losing some money at first and hopefully recouping its losses by obtaining more favorable contracts at some future time. In light of the facts (a) that Edwards has the financial wherewithall to withstand the losses

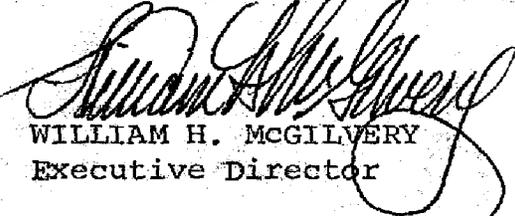
projected for the terms of the existing contracts, and (b) that the anticipated losses will not be offset by corresponding excessive rates on some other transportation service subject to regulation by this Commission, we shall not intrude on the business decision of Edwards' management.

The Compact, Title II, Article XII, Section 5(a) also requires each carrier to "... file with the Commission, and keep open for public inspection, tariffs showing (1) all fares it charges for transportation subject to this Act, ... and (2) to the extent required by the regulations of the Commission, the regulations and practices of such carrier affecting such fares." Applicant will be required to file an appropriate tariff. In addition, the normal conditions inserted in certificates authorizing charter pursuant to contract operations will be imposed. See Compact, Title II, Article XII, Section 4(b).

THEREFORE, IT IS ORDERED:

1. That Application No. 971 of Edwards Trucking Company, Inc., be, and it is hereby, granted.
2. That Certificate of Public Convenience and Necessity No. 40 be, and it is hereby, issued to Edwards Trucking Company, Inc., as attached hereto and made a part hereof.
3. That Edwards Trucking Company, Inc., be and it is hereby, directed to file two copies of its WMATC Tariff No. 1 in accordance with the authority hereinbefore set forth, such tariff to be effective upon acceptance by the Executive Director.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director

SHANNON, Commissioner, dissents:

The disposition in this case results in rates which will unquestionably undermine the financial soundness of the applicant. Such service, if it is to be provided, should at least contribute to the overall economic health of the carrier. I would deny this application because the applicant has failed to establish its fitness to conduct operations at the specified contract prices. Regardless of speculation as to more favorable rates to be obtained in the future, applicant's financial fitness should be determined on its ability to sustain a viable, remunerative operation. In my view, this evidentiary burden has not been met.

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 40

EDWARDS TRUCKING COMPANY, INC.

CLINTON, MARYLAND

By Order No. 1649 of the Washington Metropolitan Area Transit Commission issued February 8, 1977;

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. 1649;

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 thereof 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 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

CHARTER OPERATIONS, PURSUANT TO CONTRACT to transport employees of the United States government and persons traveling on official government business, together with mail:

- A. pursuant to a contract or contracts with United States Department of Commerce, National Oceanic and Atmospheric Administration,

- (1) Between FB-4 Building, Silver Hill and Suitland Roads, Suitland, Md.; World Weather Building, 5200 Auth Road, Camp Springs, Md.; Washington Navy Yard, Washington, D. C.; Department of Agriculture Buildings, 12th Street and Independence Avenue, S. W., and 14th Street and Independence Avenue, S. W., Washington, D. C.; Department of Commerce Building, 14th Street and Constitution Avenue, N. W., Washington, D. C.; and Page Building, 3300 Whitehaven Street, N. W., Washington, D. C.
- (2) Between WSC Buildings, 6001 and 6010 Executive Boulevard, Rockville, Md.; North Bethesda Office Center, 11420 Rockville Pike, Rockville, Md., and Grannax Building, 8060-13th Street, Silver Spring, Md.
- (3) Between Page Building, 3300 Whitehaven Street, N. W., Washington, D. C.; WSC Buildings, 6001 and 6010 Executive Boulevard, Rockville, Md.; North Bethesda Office Center, 11420 Rockville Pike, Rockville, Md.; Grannax Building 8060-13th Street, Silver Spring, Md.; University of Maryland, Regents Drive, College Park, Md.; ACF-1 Building, 6501 Lafayette Avenue, Riverdale, Md.; and Department of Commerce Building, 14th Street and Constitution Avenue, N. W., Washington, D. C.

B. pursuant to a contract or contracts with United States Nuclear Regulatory Commission

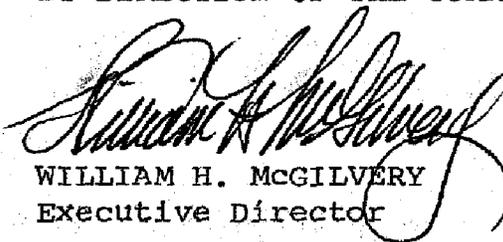
Between the facilities of Nuclear Regulatory Commission at 1717 H Street, N. W., Washington, D. C., and the facilities of Nuclear Regulatory Commission at 7290 Norfolk Avenue, Bethesda, Md.

RESTRICTION: The Authority granted herein shall not be construed as conferring more than a single operating right

IT IS FURTHER ORDERED that the operations authorized by parts A and B of this certificate of public convenience and necessity shall be limited to the performance of service pursuant to a continuing contract or contracts between Edwards Trucking Company, Inc., and (A) United States Department of Commerce, National Oceanic and Atmospheric Administration and (B) United States Nuclear Regulatory Commission, respectively, provided, however, that written notice must be filed by the carrier with the Commission within five (5) days of any cancellation or termination of any of the aforementioned agreements, and further provided that any change in or amendment to any of the aforementioned agreements shall be filed with the Commission for approval at least fifteen (15) days prior to the proposed effective date of such change or amendment, and further provided that any change or amendment to any of the aforementioned agreements which would involve new authority shall be subject to the provisions of the Washington Metropolitan Area Transit Regulation Compact and the Rules and Regulations of the Commission.

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