

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1653

IN THE MATTER OF:

Served February 28, 1977

Application of ATWOOD'S TRANSPORT)
LINES, INC., for Temporary Authority)
to Conduct Charter Operations Pursuant)
to Contract from and to Points in the)
Metropolitan District)

Application No. 981

By application filed February 15, 1977, Atwood's Transport Lines, Inc., seeks temporary authority pursuant to Title II, Article XII, Section 4(d)(3) of the Compact to transport passengers, over irregular routes, in charter operations pursuant to a contract with National Geographic Society (NGS), from points in the Metropolitan District to points in the Metropolitan District. Service would be performed in over-the-road motor coaches equipped with air conditioning and reclining seats, and with seating capacity ranging from 38 passengers to 49 passengers.

Essentially, the operation proposed is a rush-hour commuter service for employees of NGS travelling to and from their place of work at Gaithersburg, Maryland. No per capita charges are involved, and applicant's current contract with NGS provides that round-trip, per-bus charges over each of eight routes shall be as follows:

<u>Route No.</u>	<u>Price</u>	<u>Route No.</u>	<u>Price</u>
1	\$157	5	\$136
2	117	7	87
3	108	8	100
4	124	10	106

Applicant has been providing such service continuously since April 1, 1971, and states, as pertinent, that "Until just recently, Atwood's has always been of the opinion that its existing charter authority . . . authorized it to provide the involved charter service . . ." As evidence of the need for its service, Atwood's submits that it is daily transporting approximately 280 to 300 employees to and from NGS; that the only carrier with conflicting authority is The Gray Line, Inc.; and that that carrier has authorized applicant to represent to this Commission that The Gray Line, Inc., does not oppose this application for temporary authority. In addition, NGS's Director of Purchasing submitted a letter indicating that many NGS employees would have no other reasonable way to travel to and from work.

The Compact, Title II, Article XII, Section 4(d)(3) provides that "To enable the provision of 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, the Commission may, in its discretion and without hearing or other proceedings, grant temporary authority for such service." The Commission finds that there is an immediate and urgent need for the service authorized below, and further finds, in light of the apparent unwillingness of The Gray Line, Inc., to provide such service, that there is no carrier service capable of meeting the need shown.

In addition to the above-quoted statutory criteria, the Commission has always considered, in light of the urgency of the public need, an applicant's fitness properly to provide service under temporary authority. Here, it appears that applicant has been conducting unauthorized operations for several years under a faulty understanding of its authority. Inasmuch as NGS has expressed a critically urgent need for the continuation of applicant's service, we conclude that at this time it would be inappropriate to deny temporary authority because of applicant's past violations. The Commission, however, does reserve the right to question applicant's fitness in any proceeding for corresponding permanent authority, and the grant of temporary authority herein shall raise no presumption as to applicant's fitness in any other proceeding. Of course, the grant of temporary authority also raises no presumption that corresponding permanent authority, if applied for, will be granted.

One further matter requires discussion. We note that the application as filed is much broader than the scope of service called for by applicant's contract with NGS, dated December 17, 1976, which contract and attachments thereto are hereby incorporated by reference and made a part of this order. Accordingly, temporary authority shall be granted only to the extent required by said contract, and the balance of the application shall be denied.

THEREFORE, IT IS ORDERED:

1. That Atwood's Transport Lines, Inc., be, and it is hereby, granted temporary authority to transport employees of National Geographic Society, over irregular routes, in charter operations pursuant to contract with National Geographic Society,

- (a) From those points specified under the heading "A. M. Service" on Routes 1, 2, 3, 4, 5, 7, 8 and 10 attached to and made a part of the above-referenced contract (except National Geographic Society), to the facilities of National Geographic Society at Gaithersburg, Maryland; and
- (b) From the facilities of National Geographic Society at Gaithersburg, Maryland, to those points specified under the

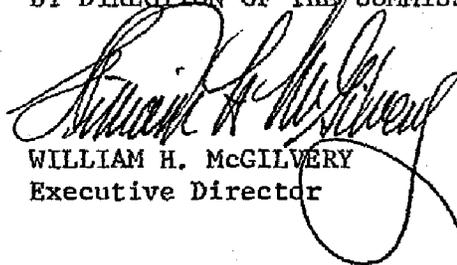
heading "P. M. Service" on Routes 1, 2, 3, 4, 5, 7, 8 and 10 attached to and made a part of the above-referenced contract (except National Geographic Society).

2. That Application No. 981 of Atwood's Transport Lines, Inc., except to the extent granted above, be, and it is hereby, denied.

3. That the charter rates set forth in the above-referenced contract be, and they are hereby, accepted for filing to be effective on the date of service hereof.

4. That the authority granted herein shall be effective on the date of service hereof and shall remain in effect through August 26, 1977, unless otherwise ordered by the Commission.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director

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