

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1676

IN THE MATTER OF:

Served April 25, 1977

McMICHAEL SCHOOL BUS SERVICE, INC. )

Formal Complaint No. 77-1

v. )

Docket No. 367

OMNIBUS CORPORATION )

By Order No. 1668, served April 5, 1977, an investigation was instituted pursuant to a complaint by McMichael School Bus Service, Inc. (McMichael) alleging that respondent Omnibus Corporation is engaged in operations contrary to the provisions of Title II, Article XII, Section 4(a) of the Compact. Said order, inter alia, made McMichael and Omnibus parties to this proceeding, required that respondent file its answer to said complaint on or before April 20, 1977, and scheduled a public hearing to commence Wednesday, May 4, 1977.

By motion filed April 19, 1977, respondent seeks an extension of time to May 4, 1977, in which to file its answer to the complaint, and also seeks an indefinite postponement of the public hearing scheduled for that date. In support of the motion, it is alleged (a) that respondent is in the process of preparing applications for temporary and permanent authority to engage in activities which are the subject of the above-referenced complaint; (b) that either respondent's president or counsel will be absent from the District of Columbia at times between April 18, 1977, and the scheduled hearing date; and (c) that inasmuch as respondent's fitness will necessarily be at issue in proceedings on the yet-unfiled applications, a reply to the complaint may best be submitted concurrently with the contemplated applications. Implicit in respondent's argument is the assumption that any proceedings engendered by the proposed applications would be consolidated with the instant proceeding.

On April 20, 1977, complainant McMichael filed its opposition to respondent's motion. Said opposition points out that respondent has already been accorded 15 days from the date of service of Order No. 1668 in which to file its answer to McMichael's complaint. Complainant further states that Omnibus should have filed appropriate applications at the time (or before) it commenced allegedly unauthorized operations and that delay of the hearing in this matter will injure complainant by continuance of direct competition with its certificated business.

Upon consideration of the record and the above-referenced pleadings, the Commission shall extend the time in which respondent may file its answer until 12 noon on Friday, April 29, 1977. No postponement of the previously

scheduled hearing will be granted. We see no inherent necessity for considering the yet-unfiled applications in conjunction with this proceeding inasmuch as to do so would broaden the issues involved and would delay this proceeding to the likely detriment of complainant. Moreover, the issue of fitness, per se, is not involved herein, and, in any event, must be separately determined in each and every application for permanent operating rights. No proper or sufficient cause has been shown either for postponing the scheduled hearing, or for extending the filing date of respondent's answer beyond the date set herein.

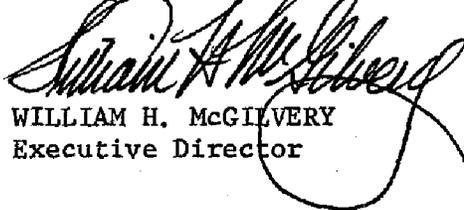
THEREFORE, IT IS ORDERED:

1. That respondent be, and it is hereby, directed to deliver an original and one copy of its answer to the complaint to the offices of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, on or before 12 Noon, Friday, April 29, 1977.

2. That respondent be, and it is hereby, directed to serve one copy of said answer on Philip N. Margolius, Esquire, attorney for complainant, 1120 Connecticut Avenue, N. W., Washington, D. C. 20036, on or before 12 Noon, Friday, April 29, 1977.

3. That except to the extent modified herein, the terms and directives of Order No. 1668 be, and they are hereby, continued in full force and effect.

BY DIRECTION OF THE COMMISSION:



WILLIAM H. MCGILVERY  
Executive Director