

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1707

IN THE MATTER OF:

Served June 8, 1977

BANNISTER ENTERPRISES, INC., )  
Investigation and Revocation of )  
Certificate No. 32 )

Docket No. 378

By Order No. 1691, served May 17, 1977, the above-captioned proceeding was instituted, the carrier's certificate of public convenience and necessity was suspended, and the carrier was directed fully to comply with the provisions of the Compact and Commission Regulation 62 dealing with security for the protection of the public.

On May 19, 1977, the carrier filed appropriate evidence of compliance with respect to operations conducted pursuant to parts B and C of its certificate. By Order No. 1695, served May 19, 1977, Certificate No. 32, parts B and C only, was reinstated. In all other respects, Order No. 1691 was continued in full force and effect with respect to Bannister Enterprises, Inc. (Bannister). Thus, parts A and D of Certificate No. 32 continued to be suspended.

On June 8, 1977, a certificate of insurance was filed with the Commission covering part A of Certificate No. 32. Accordingly, part A of Certificate No. 32 shall be reinstated.

Part A of Certificate No. 32 authorizes irregular-route, special operations from specified points within the District of Columbia to scheduled performances at Wolf Trap Farm Park for the Performing Arts near Vienna, Virginia, and return.

On May 31, 1977, during the suspension of Certificate No. 32, Webb Tours, Inc. (Webb), filed Application No. 1000 for temporary authority to transport passengers from specified points in Prince George's County, Maryland, and the District of Columbia to Wolf Trap Farm Park for the Performing Arts, and return. Many of the points in the District of Columbia duplicate points in part A of Bannister's Certificate No. 32 which is to be reinstated by this order. At the time Bannister filed its certificate of insurance covering part A of its certificate, the Commission had already determined to grant Webb's Application No. 1000 on the basis of the record before it, including its knowledge that Bannister's part A authority had been suspended since May 17, 1977, that Bannister's May 19, 1977, certificate of insurance clearly did not include part A, and that there had been no response from Bannister with respect to the suspended portions of its certificate. Accordingly, it appeared that if service

were to be provided to Wolf Trap for this season, Webb's application would have to be granted. Further, Webb and Wolf Trap entered an agreement on May 24, 1977, which, inter alia, provided that Webb's name and telephone number would appear in all Wolf Trap generic advertisement including radio, television, and print media, including certain specified magazine advertisements devoted specifically to describing the bus service available through Webb to Wolf Trap. Wolf Trap also submitted to the Commission a letter in support of Webb's application.

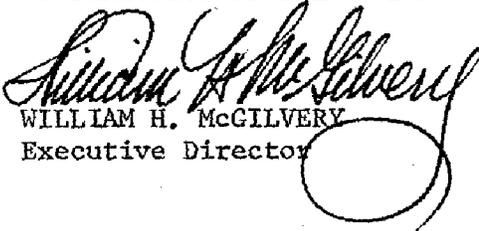
When now, at the eleventh hour, Bannister files its certificate of insurance, the Commission is faced with a situation where Wolf Trap, seeking public transportation to performances, has entered into a good-faith agreement with Webb. Webb, in turn, has entered the breach created by Bannister's inaction, offered the service, and for weeks has been making arrangements to provide it. Wolf Trap, in its advertising, has advised the public that service to performances will be available through Webb beginning tomorrow, June 9. The public has little reason to expect otherwise.

Webb's application has already been granted. With the filing of its certificate of insurance, the Commission believes that reinstatement of part A of Bannister's Certificate No. 32 is in order. The Commission further believes that the appropriate action in light of the present circumstances is to let both carriers' authority to serve Wolf Trap stand.

THEREFORE, IT IS ORDERED:

1. That Certificate No. 32, part A only, be, and it is hereby, reinstated.
2. That in all other respects, Order No. 1691 shall continue in full force and effect with respect to Bannister Enterprises, Inc.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director