

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1728

IN THE MATTER OF:

Served July 29, 1977

Application of JAMES M. SMITH, INC.,)	
for Temporary Authority and a)	Application No. 1008
Certificate of Public Convenience)	
and Necessity to Conduct Charter)	Docket No. 387
Operations Pursuant to Contract-HEW)	

By Application No. 1008, filed July 27, 1977, as supplemented, James M. Smith, Inc. (Smith) seeks temporary authority and a certificate of public convenience and necessity to perform charter operations transporting employees of the United States government between the facilities of the Department of Health, Education and Welfare (HEW), 5600 Fishers Lane, Rockville, Md., and HEW facilities at 4th and C Streets, N. W., Washington, D. C., with intermediate stops at the Rockwall Building, 11400 Rockville Pike, Rockville, Md., National Institute of Health Building No. 10, South Drive, Bethesda, Md., and Ward Circle, Washington, D. C. Operations would be conducted pursuant to a bilateral contract between Smith and HEW which contemplates five round-trips a day, Monday through Friday (except holidays), to commence August 1, 1977.

During the past year, similar service had been provided by the Washington Metropolitan Area Transit Authority. Carriers certificated by this Commission whose operating rights may conflict with those sought herein include Atwood's Transport Lines, Inc., The Gray Line, Inc., Executive Limousine Service, Inc., Beltway Limousine Service, Inc., Dawson's Charter Service, Inc., and McMichael School Bus Service, Inc. The evidence submitted with the application fails to disclose the interest, if any, of these carriers in providing the proposed service.

The Compact, Title II, Article XII, §4(d)(3) authorizes the Commission, in its discretion with or without hearings or other proceedings, to grant temporary authority where there exists an immediate and urgent need for service and there is no carrier service available to meet such need. Here, applicant has failed to satisfy the second criterion inasmuch as there is no showing that existing carriers are not available to meet this need. In order to afford applicant an opportunity to rectify this evidentiary shortcoming, a public hearing shall be scheduled.

A public hearing is also mandated by Title II, Article XII, Section 4(b) to determine whether a certificate of public convenience and necessity should be granted. In the interest of economy for the applicant, other potential parties and the Commission, we have determined that the evidence relating to both the temporary authority and certificate aspects of this application shall be presented at one hearing. Moreover, inasmuch as an immediate and urgent need for service is alleged, a hearing shall be scheduled in the Commission's discretion in less than the normal minimum of 25 days notice. See Rule 6-01 of the Commission's Rules of Practice and Procedure. Smith will be assessed an amount preliminarily estimated to cover the costs which the Compact, Title II, Article XII, §19 require as applicant to bear.

THEREFORE, IT IS ORDERED:

1. That Application No. 1008 of James M. Smith, Inc., be, and it is hereby, scheduled for public hearing to commence Monday, August 15, 1977, at 9:30 a.m. in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

2. That James M. Smith, Inc., post in its vehicles continuously through the date of the public hearing, notice of this application and hearing thereon, in the form prescribed by the staff of the Commission no later than Wednesday, August 3, 1977, and present at the hearing a certification of posting.

3. That James M. Smith, Inc., publish once, in a newspaper of general circulation in the Metropolitan District, notice of this application and hearing thereon, in the form prescribed by the staff of this Commission, no later than Wednesday, August 3, 1977, and present at the hearing a certificate of publication from the selected newspaper.

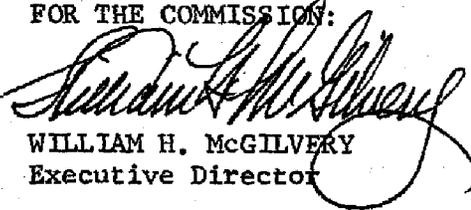
4. That any person desiring to protest the application shall file a protest in accordance with Commission Rule 14, or any person desiring to be heard on this matter shall notify the Commission in writing not later than 12 noon, Wednesday, August 10, 1977, and shall hand-deliver a copy of such protest or notice to counsel of record for applicant, Edward Kiley, Esquire, Grove, Jaskiewicz, Gilliam & Cobert, Suite 501, 1730 M Street, N. W., Washington, D. C. 20036.

5. That James M. Smith, Inc., be, and it is hereby, directed to hand-deliver a copy of its heretofore filed financial statements, not later than 12 noon, Thursday, August 11, 1977, to each party of record as of 12 noon, Wednesday, August 10, 1977.

6. That James M. Smith, Inc., be, and it is hereby, assessed \$350 pursuant to the provisions of Title II, Article XII, §19 of the

Compact, and directed to deliver said sum to the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, no later than 2 p.m., Wednesday, August 10, 1977.

FOR THE COMMISSION:



WILLIAM H. MCGILVERY
Executive Director

