

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1764

IN THE MATTER OF:

Served October 26, 1977

Application of REHAB TRANSPORTATION,)
INC., to Transfer Certificate No. 30)
to CONVAL PORT MEDIVAN, INC.)

Application No. 1005

Docket No. 385

By Application No. 1005, filed June 16, 1977, Rehab Transportation, Inc. (Rehab), seeks approval pursuant to Title II, Article XII, Section 12(b) of the Compact to transfer by sale its Certificate of Public Convenience and Necessity No. 30, issued March 30, 1976, to Conval Port Medivan, Inc. (Conval), of Baltimore, Md. By Order No. 1717, served June 23, 1977, and incorporated herein by reference, the Commission granted Conval temporary approval to operate Rehab's certificate and scheduled a public hearing on the above-mentioned application to commence on August 22, 1977. By motion (styled petition) filed August 17, 1977, Rehab and Conval waived their right to an oral hearing, requested that the hearing scheduled by Order No. 1717 be cancelled, and sought leave to submit further evidence in the form of verified statements. By Order No. 1737, served August 18, 1977, and incorporated herein by reference, the Commission granted said motion. No protests have been filed herein.

Certificate No. 30 authorizes the following irregular-route service:

SPECIAL OPERATIONS, limited to handicapped or disabled persons together with their baggage and attendants and not including sightseeing or pleasure tours, between points within the Metropolitan District.

RESTRICTED to the performance of such operations in vehicles with a seating capacity of fifteen passengers excluding the driver.

Rehab has encountered serious financial difficulties in the last two years, and in an attempt to reduce expenditures, it has liquidated all but one of its vans. Rehab asserts that its only business alternative to the sale of its certificate would be simply going out of business.

Conval is a Maryland corporation specializing in the transportation of physically handicapped persons. It presently transports, in specially equipped vans, between 40 and 50 persons weekly in the Baltimore metropolitan area. Conval presently provides service pursuant to the above-referenced temporary approval in two vans equipped with hydraulic lifts and special wheelchair locking devices.

Conval's balance sheet as of March 31, 1977, reflects \$15,444 current assets, \$42,103 total assets, \$30,820 current liabilities, \$8,872 long-term liabilities, and \$2,411 stockholder's equity. Its statement of projected income for a one-year period from the proposed transfer of Rehab's certificate anticipates \$65,000 revenue, \$59,000 operating expenses, and \$6,000 net income.

Title II, Article XII, Section 12(b) of the Compact requires that any person seeking to transfer by sale its certificate of public convenience and necessity obtain approval from the Commission. Under this provision of the Compact, the Commission may approve said transfer if it finds that the proposed transfer is consistent with the public interest.

In determining whether this transfer is consistent with the public interest, the Commission considers, among other factors, the following: (a) the fitness of the carrier seeking to obtain the certificate; (b) whether the operating rights sought to be transferred are dormant; and (c) whether the riding public would be benefitted by a transfer of the certificate.

The Commission finds that the transfer herein is consistent with the public interest. Conval has demonstrated the financial ability and expertise to operate as a certificated carrier in a fit manner and the proposed transfer involves the sale of non-dormant operating rights. Moreover, the riding public would benefit by approval of the transfer inasmuch as Rehab, heretofore one of the two largest providers of service to handicapped or disabled persons in the Metropolitan District, appears financially unable to carry on operations in the future. Accordingly, we find that this application should be granted.

The Commission also considers whether the purchase price of a certificate is fair and reasonable so as to assure, if possible, that the vendee (a) will be able to service the debt, if any, to be incurred, and (b) will not be including any unreasonable cost in present or future rate requests. Here, the contractual consideration is 10 percent of the profits to be earned by Conval under the transferred certificate. Inasmuch as this consideration obviously involves a division of equity and would not increase vendee's expenses, we find no objection to this aspect of the transfer.

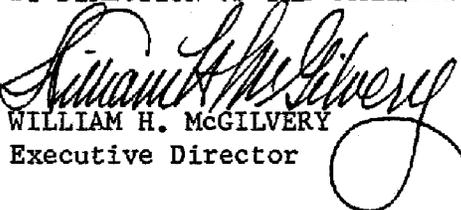
We further find that modification of Certificate No. 30 is warranted. At present, Rehab may conduct operations only in vehicles seating exactly 15 passengers, excluding the driver. This restriction appears to be unduly burdensome and fails to consider the design modifications normally effected on vans utilized in transporting passengers who are confined to wheelchairs. Therefore, the restriction shall be rephrased as follows:

RESTRICTED to the performance of such service in vehicles with a manufacturer's designed seating capacity of 15 passengers or less, excluding the driver.

THEREFORE, IT IS ORDERED:

1. That Application No. 1005 of Rehab Transportation, Inc., and Conval Port Medivan, Inc., be, and it is hereby, granted.
2. That Conval Port Medivan, Inc., be, and it is hereby, directed to file with the Commission within 20 days from the date of service hereof (a) a current certificate of insurance as required by Commission Regulation 62, (b) two copies of its WMATC Tariff No. 1 as required by Commission Regulation 55, and (c) a notarized statement of compliance with Commission Regulation 68 governing identification on motor vehicles.
3. That upon compliance with the conditions set forth in the next preceding paragraph, and approval by the Commission of Conval Port Medivan, Inc.'s, tariff, an appropriately modified certificate of public convenience and necessity shall be issued.
4. That unless compliance is so made within 20 days from the date of service hereof, or such additional time as may be authorized by the Commission, the grant of authority herein shall be considered null and void and this application shall stand denied in its entirety effective upon the expiration of the said compliance time.
5. That the temporary approval granted Conval Port Medivan, Inc., herein, be, and it is hereby, cancelled effective 30 days from the date of service hereof.
6. That WMATC Certificate of Public Convenience and Necessity No. 30, issued to Rehab Transportation, Inc., on March 30, 1976, be, and it is hereby, cancelled, effective 30 days from the date of service hereof.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 30 *

CONVAL PORT MEDIVAN, INC.

BALTIMORE, MARYLAND

By Order No.1764,of the Washington Metropolitan Area Transit Commission issued October 26, 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. 1764;

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 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 herein 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:

SPECIAL OPERATIONS, limited to handicapped or disabled persons together with their baggage and attendants and not including sightseeing or pleasure tours, between points within the Metropolitan District.

RESTRICTED to the performance of such operations in vehicles with a manufacturer's designed seating capacity of fifteen passengers or less, excluding the driver.

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

* This certificate cancels and supercedes Certificate of Public Convenience and Necessity No. 30, issued to Rehab Transportation, Inc., pursuant to Order No. 1526, served March 30, 1976.