

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1787

IN THE MATTER OF:

Served December 23, 1977

Application of AIRPORT LIMO, INC., )  
for Temporary Authority to Perform )  
Charter Operations Pursuant to )  
Contract - American Airlines Air- )  
craft Crews )

Application No. 1018

Application of AIRPORT LIMO, INC., )  
for Temporary Authority to Perform )  
Charter Operations Pursuant to )  
Contract - National Airlines Air- )  
craft Crews )

Application No. 1019

Application of AIRPORT LIMO, INC., )  
for Certificate of Public Conve- )  
nience and Necessity to Perform )  
Charter Operations Pursuant to )  
Contract - American Airlines and )  
National Airlines Aircraft Crews )

Application No. 1024

Consolidated Docket No. 400

By Application No. 1018, filed November 2, 1977, Airport Limo, Inc. (Limo), seeks temporary authority pursuant to Title II, Article XII, Section 4(d)(3) of the Compact to transport, in charter operations pursuant to contract, American Airlines aircraft crews having a prior or subsequent movement by air, together with their baggage, between Washington National Airport, Gravelly Point, Va., on the one hand, and, on the other, Dulles International Airport, Chantilly, Va., via a route traversing Columbia Island, Washington, D. C. Limo has entered into a bilateral contract with American Airlines to provide scheduled service between the two airports. By protest (letter) filed November 4, 1977, Central Delivery Service of Washington, Inc. (Central), opposes this application.

By Application No. 1019, also filed November 2, 1977, Limo seeks temporary authority to transport, in charter operations pursuant to contract, National Airlines aircraft crews having a prior or subsequent movement by air, together with their baggage, between Washington National Airport, Gravelly Point, Va., on the one hand, and, on the other, points in the District of Columbia. Limo has entered into a bilateral contract with National Airlines to provide such service on a scheduled basis. This application is unopposed.

By Application No. 1024, filed November 7, 1977, Limo seeks a certificate of public convenience and necessity pursuant to Title II, Article XII, Section 4(b) of the Compact to transport, in charter operations pursuant to contract, (a) National Airlines aircraft crews having a prior or subsequent movement by air, together with their baggage, between Washington National Airport, Gravelly Point, Va., on the one hand, and, on the other, the District of Columbia, and (b) American Airlines aircraft crews having a prior or subsequent movement by air, together with their baggage, (1) between Washington National Airport, Gravelly Point, Va., on the one hand, and, on the other, Dulles International Airport, Chantilly, Va., via a route traversing Columbia Island, Washington, D. C., and (2) between Dulles International Airport, Chantilly, Va., and Washington National Airport, Gravelly Point, Va., on the one hand, and, on the other, points in the District of Columbia. Central holds Certificate No. 23 which authorizes the transportation proposed in (b)(2) above.

Title II, Article XII, Section 4(d)(3) of the Compact authorizes the Commission to grant temporary authority, in its discretion, to enable the provision of service for which there is an immediate and urgent need and where there is no carrier service capable of meeting such need. In our judgment, both temporary authority applications should be set for public hearing.

As noted above, Application No. 1018 is opposed by Central which has been performing service pursuant to an asserted exemption conferred by Order No. 1432, served May 27, 1975. Order No. 1573, served June 23, 1976, however, indicates that service between two points in Virginia is subject to regulation when the normal route between such points traverses the District of Columbia. Accordingly, we note probable jurisdiction over this proceeding. A public hearing will afford an appropriate forum for resolution of this issue. Moreover, we are not prepared to find, prior to hearing, that there is an unfulfilled immediate and urgent need for Limo's service where Central has been operating pursuant to an unrepealed finding of exemption.

Both applications raise a question of common control under Title II, Article XII, Section 12 of the Compact, inasmuch as Limo is affiliated with Arlington Yellow Cab Company, Inc. (Arlington Yellow Cab), the holder of Certificate of Public Convenience and Necessity No. 26. It is our initial opinion that conferring carrier status upon Limo would violate the prohibition expressed in Title II, Article XII, Section 12(a)(2)(ii) of the Compact. In light of the fact that Arlington Yellow Cab has filed Application No. 1026 to transfer its certificate to Limo, it appears that this problem may be resolved without the need for considering common control as an issue in these applications.

We now turn to Application No. 1024. Title II, Article XII, Section 4(b) of the Compact provides that an application for a certificate of public convenience and necessity may be granted "after hearing held upon reasonable notice". The Commission shall, therefore, schedule a public hearing on this application. Limo shall be assessed an amount preliminarily estimated to cover the cost of these hearings in accordance with Title II, Article XII, Section 19 of the Compact.

THEREFORE, IT IS ORDERED:

1. That Application No. 1019 of Airport Limo, Inc., be, and it is hereby, scheduled for public hearing to commence Tuesday, January 24, 1978, at 1 p.m. in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

2. That Application Nos. 1018 and 1024 of Airport Limo, Inc., be, and they are hereby, scheduled for consolidated public hearing to commence Wednesday, January 25, 1978, at 9:30 a.m. in the aforesaid Hearing Room of the Commission.

3. That Airport Limo, Inc., be, and it is hereby, directed to publish once, in a newspaper of general circulation in the Metropolitan District, notice of said applications and the hearings thereon, in the form prescribed by the staff of the Commission, no later than Friday, December 30, 1977.

4. That Airport Limo, Inc., be, and it is hereby, directed to produce at said hearings affidavits of said publications.

5. That any person desiring to protest any or all of these applications shall file a protest in accordance with Commission Rule 14, or any person desiring to be heard on these matters shall so notify the Commission in writing, no later than Friday, January 13, 1978, and shall mail a copy of said protest or notice to counsel of record for applicant, Lawrence D. Levien, Esquire, Akin, Gump, Hauer and Feld, 1100 Madison Office Building, 1115 - 15th Street, N. W., Washington, D. C. 20005.

6. That Airport Limo, Inc., be, and it is hereby directed to file with the Commission six copies of a projected revenue and revenue deductions statement for each proposed service, the originals thereof to be produced at the above-scheduled public hearings, no later than 12 noon, Wednesday, January 18, 1978, and to serve a copy thereof on each party of record as of Friday, January 13, 1978.

7. That Airport Limo, Inc., be, and it is hereby, assessed \$300 pursuant to Title II, Article XII, Section 19 of the Compact, and

directed to deliver said amount to the office of the Commission,  
Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, no later than  
12 noon, January 16, 1978.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director

BARNES, Vice Chairman, not participating