

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1811

IN THE MATTER OF:

Served March 6, 1978

Application of EDWARDS TRUCKING)
COMPANY, INC., for Charter)
Authority Pursuant to Contract)
with the U.S. Nuclear Regulatory)
Commission)

Case No. AP-78-6

By application filed February 14, 1978, Edwards Trucking Company, Inc. (Edwards), seeks a certificate of public convenience and necessity to transport passengers together with mail, express, and baggage over irregular routes in charter operations pursuant to a contract with the U.S. Nuclear Regulatory Commission (NRC) as follows:

Shuttle bus transportation service, Monday through Friday, for the period from March 31, 1978, through March 1, 1979, between the NRC offices at the Willste Building, 7915 Eastern Avenue, Silver Spring, Md., the NRC offices at East West Towers, 4350 East West Highway, Bethesda, Md., the NRC office at 7920 Norfolk Avenue, Bethesda, Md., and to the NRC office at 5650 Nicholson Lane, Rockville, Md.

In support of its application, Edwards has submitted its bid to NRC for the proposed service, including a schedule of trips. It has also submitted a balance sheet and statement of earnings. Edwards proposes to purchase three 15-passenger vehicles and one 15-passenger backup vehicle to provide the service. These vehicles would be air-conditioned.

Edwards holds Certificate of Public Convenience and Necessity No. 40 issued by this Commission which authorizes, inter alia:

CHARTER OPERATIONS, PURSUANT TO CONTRACT to transport employees of the United States Government and persons traveling on official government business, together with mail, pursuant to a contract or contracts with United States Nuclear Regulatory Commission:

Between the facilities of Nuclear Regulatory Commission at 1717 H Street, N. W., Washington, D. C., and the facilities of Nuclear Regulatory Commission at 7290 Norfolk Avenue, Bethesda, Md.

The Compact, Title II, Article XII, Section 4(b) provides, as here pertinent:

When an application is made under this section for a certificate . . . the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the transportation covered by the application, if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise such application shall be denied.

Accordingly, this application for certificated authority shall be scheduled for public hearing, and Edwards shall be required to post and publish notice of its application and shall be assessed an amount preliminarily estimated to cover the cost of the hearing in accordance with the Compact, Title II, Article XII, Section 19.

By cover letter accompanying the application, counsel for Edwards states that the beginning date of the contract is March 31, 1978, and requests temporary authority pursuant to Title II, Article XII, Section 4(d) (3) of the Compact. That section states that the Commission may, in its discretion, grant temporary authority if it finds there is (1) an immediate and urgent need and (2) that there is no carrier service capable of meeting such need. With respect to the first criterion the Commission notes that Edwards has produced the proposed contract as evidence of the need, but the immediacy and urgency is expressed in terms of Edwards' need for the authority rather than NRC's need for the service. Further, Edwards has not been awarded this contract. Its status is that of one bidder among many. Moreover, with respect to the second criterion, the Commission notes that another carrier already holds the authority here sought by Edwards. Certificate of Public Convenience and Necessity No. 23 issued to Central Delivery Service of Washington, Inc. (Central) authorizes, inter alia:

CHARTER OPERATIONS PURSUANT TO CONTRACT to perform transportation of persons travelling on official government business, among the NRC office in the Willste Building, 7915 Eastern Avenue, Silver Spring, Md., the NRC office in

the East West Towers, 4350 East West Highway, Bethesda, Md., the NRC office in the Phillips Building, 7920 Norfolk Avenue, Bethesda, Md., and the NRC office at 5650 Nicholson Lane, Rockville, Md.

Central opposes Edwards' request.

Accordingly, the necessary conditions for a grant of temporary authority are not met, and Edwards' request must be denied.

As an alternative to temporary authority Edwards requests a waiver of the 25-day notice requirement of Rule 6-01 concerning public hearings. The Commission does not find the circumstances of this proceeding so compelling as to warrant such a waiver.

THEREFORE, IT IS ORDERED:

1. That Case No. AP-78-6, an application of Edwards Trucking Company, Inc., for a certificate of public convenience and necessity to perform charter operations pursuant to contract with the Nuclear Regulatory Commission, be, and it is hereby, scheduled for public hearing to commence at 9:30 a.m. on Tuesday, April 4, 1978, in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.

2. That the request of Edwards Trucking Company, Inc., for temporary authority for the same be, and it is hereby, denied.

3. That Edwards Trucking Company, Inc., be, and it is hereby, directed to publish once, in a newspaper of general circulation in the Metropolitan District, notice of this application and hearing in the form prescribed by the Commission staff, no later than Monday, March 13, 1978.

4. That Edwards Trucking Company, Inc., be, and it is hereby, directed to post in each of its vehicles, continuously throughout the date of public hearing, notice of this application and hearing in the form prescribed by the Commission staff, no later than Monday, March 13, 1978.

5. That any person desiring to protest shall file a protest in accordance with Commission Rule 14, or any person desiring to be heard in this matter shall so notify the Commission in writing no later than Friday, March 24, 1978, and shall mail a copy of said protest or notice to counsel for Edwards Trucking Company, Inc., Donald L. Noble, Esquire, Giordano, Alexander, Haas, Mahoney & Bush, 9401 Indian Head Highway, Oxon Hill, Md. 20022.

6. That Edwards Trucking Company, 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 Friday, March 31, 1978.

BY DIRECTION OF THE COMMISSION



WILLIAM H. MCGILVERY
Executive Director