

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1814

IN THE MATTER OF:

Served March 10, 1978

Application of VINCENT FERGUSON)
GIBSON T/A CONTINENTAL LIMOUSINE)
for a Certificate of Public Conve-)
nience and Necessity to Perform)
Special Operations -- Dulles Inter-)
national Airport)

Application No. 986

Docket No. 366

Application of EXECUTIVE LIMOUSINE)
SERVICE, INC., for a Certificate of)
Public Convenience and Necessity to)
Perform Special Operations)

Application No. 994

Docket No. 371

By Order No. 1804, served February 9, 1978, the Commission, on reconsideration, (a) affirmed its denial of Application No. 986, (b) granted certain temporary authority to Executive Limousine Service, Inc. (Executive), and (c) held Application No. 994 in abeyance pending the filing of evidence establishing Executive's vehicle capacity to perform the proposed service as directed in said order.

On February 22, 1978, Executive filed a verified statement relating to the vehicle capacity issue. On the same date, Vincent Ferguson Gibson, trading as Continental Limousine (Continental), filed a Motion for Reconsideration of the decision summarized in (a) above. Executive filed its reply to said motion on February 27, 1978. This order shall dispose of the matters raised in each referenced filing.

Turning first to Continental's motion for reconsideration, 1/ the only specific assertion of error is that "[t]o the extent that the Commission relied upon its finding that Continental was in fact performing unauthorized charter operations in concluding that Continental was 'unfit' to receive a certificate of public convenience and necessity, such conclusion must be reconsidered."

Initially, the Commission must determine whether Order No. 1804, an order issued on reconsideration, is subject to further reconsideration. Continental urges that insofar as testimony at the hearing on reconsideration related to events occurring subsequent to the initial hearing and raised

1/ Continental specifically states that the motion "does not affect the validity of the temporary authority granted to Executive."

new issues, further reconsideration is proper. Executive contends that Order No. 1804, as pertinent, merely affirmed the Commission's denial of Application No. 986, 2/ and that said application is administratively final. While Executive's position may be technically correct, we intend to determine Continental's motion on its merits. The history of these proceedings is long and tortured, and under the circumstances present herein, we deem it best to avoid any suggestion that all parties were not afforded a full opportunity to be heard. Inasmuch as Continental's motion assails only the Commission's evaluation of new evidence adduced at the hearing on reconsideration which has not yet been subject to reconsideration, Continental shall be heard thereon.

As noted above, Continental asserts that the Commission found that Continental was performing unauthorized charter operations despite the fact that Continental's president testified to the contrary that no such operations were conducted subsequent to May 1977. Continental explains that the testimony of Executive's secretary to the effect that Continental's vans were "booked up" and unavailable for charter operations, "was very likely intended" to stall a purportedly legitimate customer until after the hearing on reconsideration.

This post hoc rationalization does nothing, however, to explain why Continental quoted a rate of \$17 an hour for charter van service. Moreover, the mere fact that the date through which Continental's vans were assertedly "booked up" coincides with the date of the hearing on reconsideration is of little import inasmuch as said hearing could not have resulted in a grant of authority commensurate with the service sought by Executive's secretary. Hence, we are not persuaded that the inferences suggested by Continental are warranted.

Even assuming, arguendo, that Continental neither chartered vans nor intended to charter vans to the general public, there remains ample evidence in support of our finding of unfitness. Accordingly, no modification of Order No. 1804 is required, and Continental's motion for reconsideration shall be denied.

Turning now to Application No. 994, the Commission finds on reconsideration that Executive is operationally fit to conduct its certificated services including those proposed herein. Accordingly, Certificate of Public Convenience and Necessity No. 18 as reissued November 7, 1977, shall be reinstated.

Pursuant to the mandate of Order No. 1804, Executive filed a verified statement on February 22, 1978, detailing how it proposed to

2/ See Order No. 1765, served November 1, 1977.

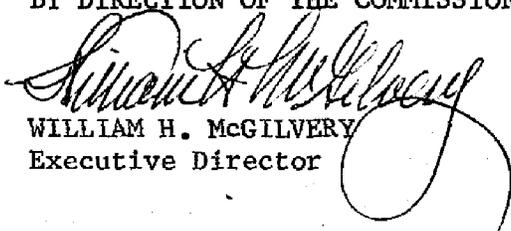
fulfill its transportation obligations. To accommodate the additional demands on its fleet that would be made by Trans World Airlines crews, Executive has purchased a 1977, 14-passenger Maxivan and has ordered two additional 1978 Maxivans. These 1978 vans, due for delivery in late March, will have extended bodies and greater interior luggage space. Pending availability of these vehicles, Executive has returned to service one 1973, 14-passenger Quality Coach limousine for use as a stand-by vehicle. Executive's statement also describes the recurring demands on its fleet, how those demands are being met at present, and how they will be met in the foreseeable future.

THEREFORE, IT IS ORDERED:

1. That, upon further reconsideration, the denial of Application No. 986 of Vincent Ferguson Gibson trading as Continental Limousine be, and it is hereby, affirmed.

2. That Certificate of Public Convenience and Necessity No. 18, as reissued to Executive Limousine Service, Inc., on November 7, 1977, be, and it is hereby, reinstated.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director

