

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1823

IN THE MATTER OF:

Served March 27, 1978

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 Certificate of Public Conve-)
nience and Necessity to Perform)
Charter Operations Pursuant to)
Contract - American Airlines and)
National Airlines Aircraft Crews^{1/})

Application No. 1024

Consolidated Docket No. 400

By Application No. 1018, filed November 2, 1977, Airport Limo, Inc. (Airport 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. Airport Limo has entered into a bilateral contract with American Airlines to provide scheduled service between the two airports.

By Application No. 1024, filed November 7, 1977, as pertinent, Airport 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, 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 Delivery Service

^{1/} Only that portion of Application No. 1024 dealing with service pursuant to contract with American Airlines shall be considered in this order.

of Washington, Inc., opposes both applications. Pursuant to Order No. 1787, served December 23, 1977, a public hearing was held on both applications on January 25 and 26, 1978.

Initially, a question of jurisdiction must be decided with respect to the proposed service between Dulles and National airports, inasmuch as both points are located in the Commonwealth of Virginia. For the reasons set forth in Order No. 1822 served concurrently herewith, we conclude that the traversal of Columbia Island in the District of Columbia negates the exception to the Commission's jurisdiction expressed in Title II, Article XII, Section 1(b) of the Compact. Hence, we shall decide these applications on their merits.

Applicant's general manager testified that Airport Limo will provide service with a fleet of 11-passenger vans, some of which are based at National and Dulles airports. Airport Limo employs various driver training and vehicle safety schedules, and both standby equipment and personnel will be available at the airports to meet any additional service requirements that American Airlines may have.

With respect to applicant's financial fitness, Airport Limo is currently losing approximately \$4,000 a month. Allstate Messenger and Delivery Service, Inc. (Allstate), an affiliated company, has executed a corporate resolution, dated January 26, 1978, in which it agrees to loan whatever money is necessary to cover Airport Limo's losses. Said loan is repayable at 8 percent interest and Allstate's resolution is irrevocable absent 60 days prior written notice to the Commission.

Allstate's balance sheet reflects current assets of \$277,107, total assets of \$406,685, current and long-term liabilities of \$276,575 and \$23,447, respectively, and stockholder's equity of \$106,663.

Captain W. S. Dobbs, the Flight Base Manager for American Airlines, testified that he exercises final responsibility for securing ground transportation for American Airlines crews at both Dulles and National airports. Pursuant to a labor contract, American Airlines is required to contract for private transportation for its crews. American Airlines supports Airport Limo's applications to transport between 270 and 300 crews a month, both between the airports and to and from downtown hotels.

Captain Dobbs believes that applicant's physical presence at both airports provides an inherent advantage in dealing with emergencies such as crew schedule changes, flight diversions or equipment breakdowns. By way of contrast, the witness testified that Central's vehicles, stationed at Silver Spring, Md., are often unresponsive to American Airlines time-is-of-the-essence requirements. Central's primary reliance on station wagons (five passenger limit) as opposed to 11-passenger vans also causes dissatisfaction. Crews transported in station wagons assertedly are too "cramped" and on many occasions two vehicles must be used to transport one crew.

Captain Dobbs has received numerous complaints about Central from users of that service. Late arrival of vehicles, discourteous drivers, reckless driving and vehicle breakdowns have all been the subject of these "debrief" complaints received in the regular course of business. According to Captain Dobbs, this type of service has an adverse impact upon both the crews' ability properly to serve airline passengers and the proper functioning of American Airlines' flight schedules. Captain Dobbs sponsored several exhibits prepared to show specific service failures by Central. Central has been advised of these problems, without significant lasting improvement. Although American Airlines now has a contract with Central for the proposed services, American Airlines desires to terminate that contract and enter into a new contract with Airport Limo.

Several witnesses testified on behalf of Central. Generally, they acknowledged that American Airlines had made some service complaints and that Captain Dobbs had informed Central of his decision to terminate Central's contract. The witnesses for Central believe that it has been providing a good service for American Airlines. The testimony of, and the exhibits sponsored by, these witnesses, tended to explain or rebut the complaints recited by Captain Dobbs. The Central witnesses also testified that American had failed to relate to them many of the complaints mentioned by Captain Dobbs, thereby depriving Central of a meaningful opportunity to correct such service deficiencies as may have existed.

After carefully weighing the evidence of record including the somewhat conflicting testimony of American Airlines and Central, the Commission finds that Application No. 1024 should be granted except to the extent authority is sought to and from points in the District of Columbia other than hotels. Although American Airlines' lack of communication with Central probably contributed to the less-than-satisfactory carrier service received, an adequate record exists in support of American Airlines decision to contract with another carrier. There clearly exists a need for the proposed transportation. The existing service has been unsatisfactory to American Airlines. Although we are mindful that a perfect service record in the motor carrier industry is seldom achieved, we concur with American Airlines that the quality of Central's service, even after repeated complaints and meetings, continues to be substandard. The Commission further finds, considering Central's overall viability and the virtually negligible contribution of American Airlines toward Central's financial well being, that Central will suffer no materially adverse consequences from the termination of this contract. In any event, the public benefits to be derived from granting this application outweigh any adverse consequences to Central which might be engendered thereby.

We further conclude that American Airlines has articulated a supportable desire to end its contract with Central. To date, the lack of any competing carrier to provide service has frustrated this desire. When the Commission adopted Regulation 51-06 defining charter operation(s) pursuant to contract, (see Order No. 1361, served October 16, 1974), it had no intention thereby to create a self-perpetuating monopoly whereby a contracting charterer would forever be bound to the same carrier. In our view, such an action would have been unsupportably anticompetitive

and contrary to the public convenience and necessity. Accordingly, all certificates of public convenience and necessity for charter operations pursuant to contract are restricted to service performed pursuant to a bilateral agreement, and are further restricted by the mandate of Title II, Article XII, Section 3 that continuous and adequate service be rendered. A denial of this application would negate the purposes of these restrictions.

The Commission must now consider the effect that granting Application No. 1024 will have on Central's Certificate No. 23. Clearly, upon the termination of the Central - American Airlines contract likely to result from our award of authority to Airport Limo, Central will be unable to perform charter operations pursuant to a contract with American Airlines. We find this situation analogous to that discussed by Division 1 of the Interstate Commerce Commission in Kenny Transfer, Inc. - Revocation of Permits, 107 M.C.C. 81 (1968). There a contract carrier's last contract was cancelled and there appeared little likelihood that the carrier would continue to engage in the transportation authorized. Here, there appears to be little likelihood that Central will conduct charter operations pursuant to contract with American Airlines in the near future. Accordingly, an investigation proceeding with a view to revoking this part of Certificate No. 23 pursuant to Title II, Article XII, Section 4(g) of the Compact should be instituted concurrently with the administrative finality of this proceeding, and the Executive Director is so instructed and empowered.

One further matter requires discussion, namely Application No. 1018. Based on our consideration of the evidence discussed above, the Commission finds that American Airlines has an immediate need for service from and to the points embraced in Application No. 1018. Our conclusion herein and in Order No. 1822, that this service requires authority from this Commission terminates the good faith argument advanced by Central that it may continue to perform such service without authority therefor, in reliance on the exemption it believed was conferred by Order No. 1432. Inasmuch as it now appears that there exists no carrier with the capability under either appropriate authority or color of right to provide the service required by American Airlines, Application No. 1018 shall be granted.

THEREFORE, IT IS ORDERED:

1. That Application No. 1018 of Airport Limo, Inc., be, and it is hereby, granted, effective either upon the date of service hereof, or upon the acceptance by the Executive Director of an appropriate tariff therefor, including an executed contract between Airport Limo, Inc., and American Airlines, whichever is later, and extending for a duration of 180 days therefrom unless otherwise ordered by the Commission.

2. That the portion of Application No. 1024 of Airport Limo, Inc., considered herein, except to the extent granted herein, be, and, it is hereby, denied.

3. That upon the filing of an appropriate tariff including an executed contract between Airport Limo, Inc., and American Airlines, an appropriately revised Certificate of Public Convenience and Necessity No. 26 shall be reissued to Airport Limo, Inc.

4. That unless said tariff and contract are filed with the Commission within 30 days from the date of service hereof, the grant of authority in paragraph 2 hereof shall be null and void and that part of Application No. 1024 shall stand denied in its entirety effective upon the expiration of the said 30 days.

5. That concurrent with the administrative finality of Application No. 1024, an investigation of Central Delivery Service of Washington, Inc., pursuant to Title II, Article XII, Section 4(g) of the Compact shall be instituted for the purpose of determining whether Certificate of Public Convenience and Necessity No. 23 shall be modified by deletion of the fourth paragraph thereof.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director