

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1959

IN THE MATTER OF:

Served February 9, 1979

Proposed WMATC Regulation No. 70 )  
Concerning Charter Operations )  
Pursuant to Contracts for )  
Employee-Type Transportation )

Case No. MP-79-04

In 1974, this Commission formally recognized a sub-category of passenger transportation service known as "charter pursuant to contract". We began to issue certificates of public convenience and necessity based, not on the requirements of the general traveling public in the Metropolitan District, but on the specific needs of contracting parties as expressed in long-term bilateral agreements with carriers. Since that time, a significant number of carriers have become specialists in the performance of this type of service and the market for such service has grown substantially. Accordingly, what was initially considered to be a mere variation of traditional charter operations appears to have evolved into a major transportation classification in its own right.

The Interstate Commerce Act has long recognized important differences between contract-carrier operations tailored to suit the needs of particular persons and common carriage available to the general public.<sup>1/</sup> The Compact under which this Commission operates makes no such distinction and embraces within the term "carrier" any person who engages in the transportation of passengers for hire by motor vehicle, street railroad, or other form or means of conveyance.<sup>2/</sup> However, it is the initial opinion of the Commission that the qualitative differences between charter operations pursuant to contract and general charter operations may warrant procedural distinctions in our economic regulation of these two classes of service. It is the purpose of this investigation to determine whether the regulatory process may be made more responsive to the needs of both the suppliers and the users of charter-pursuant-to-contract service within the requirements of the Compact.

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1/ See 49 U.S.C. §§203(a)14 and 15, 207(a) and 210(b).

2/ Compact, Title II, Article XII, Section 2(a).

The Commission hereby institutes this proceeding on its own motion pursuant to Title II, Article XII, Section 15 of the Compact, which provides that "[t]he Commission shall have power to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act." The Commission is undertaking this proceeding to determine whether the market-entry regulation of transporters of employees (and similar persons) by arrangement of employers (or similar third parties) in charter operations pursuant to contract should be modified to increase responsiveness to existing needs.

Title II, Article XII, Section 4(b) of the Compact is of primary interest in the proceeding and states as follows:

When an application is made under this section for a certificate, except with respect to a service being rendered upon the effective date of this Act, the Commission shall issue a certificate to any qualified applicant therefore, 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. The Commission shall act upon applications under this subsection as speedily as possible. The Commission shall have the power to attach to the issuance of a certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require; provided, however, that no terms, conditions, or limitations shall restrict the right of the carrier to add to his or its equipment and facilities over the routes, between the termini, or within the territory specified in the certificate, as the development of the business and the demands of the public shall require. [Emphasis added].

The Commission proposes to hold a hearing to determine the attributes of a qualified applicant who is fit, willing and able to perform charter-pursuant-to-contract service and to conform to the stated requirements. The Commission proposes to determine whether it can and should enter a general finding that employee-type transportation services are required by the public convenience and necessity, and what reasonable terms and conditions should attach to a certificate issued as a result of such a

general finding. In addition, the Commission proposes to determine whether a regulation governing the filing and expeditious processing of applications seeking the right to operate pursuant to such a special certificate can and should be adopted. In this fashion the Commission seeks to comply with the requirement that it act as speedily as possible on such applications.

The Compact, Title II, Article XII, Section 15 states as here pertinent:

For the purpose of its rules and regulations the Commission may classify persons and matters within its jurisdiction and prescribe different requirements for different classes of persons or matters.

The impact of the Commission's investigation and the rulemaking which may follow is prospective in nature and applies generally to an entire class rather than particular members of a class. We propose herein to review our existing procedure and to propose a flexible and adaptable approach to certain changing transportation patterns and needs of the Metropolitan District. With full cognizance of our regulatory responsibilities over the activities of charter-pursuant-to-contract operators, we will seek to reevaluate the manner and form in which we exercise our jurisdiction over such transportation.

Heretofore the Commission has exercised jurisdiction over charter-pursuant-to-contract transportation with the same case-by-case procedures it uses for other operating rights applications. Traditionally, such service was performed by carriers holding authority to perform charter operations whereby they could transport "a group of passengers who, pursuant to a common purpose and under a single contract, have acquired the exclusive use of a vehicle or vehicles to travel together."<sup>3/</sup> Some 4-1/2 years ago, however, we conducted an investigation to determine whether a type of service that is performed pursuant to a contract for transportation on a regular basis for an extended period of time, over irregular routes, may be performed pursuant to such charter authority.<sup>4/</sup>

As a result of that investigation, the Commission found that the primary distinction between charter operations and charter-pursuant-to-contract operations is that "a charter service is usually for a particular itinerary that occurs only once whereas the contract charter carrier provides a periodically recurrent service".<sup>5/</sup> We also found that a certificated charter carrier may perform contract charter service within the broader scope of its charter authority. Since that time, many

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<sup>3/</sup> Commission Regulation No. 51-06(a).

<sup>4/</sup> See Order No. 1342, served July 12, 1974.

<sup>5/</sup> See Order No. 1361, served October 16, 1974.

carriers have sought authority to perform specific charter operations pursuant to contract, which are defined as "the transportation of persons under a single written contract which provides for the exclusive and periodically recurrent use of a vehicle or vehicles to meet the distinct need of the passengers."<sup>6/</sup> Holders of certificates authorizing charter operations pursuant to contract have transported Kennedy Center patrons, Amtrak passengers, National Institutes of Health out-patients, persons traveling on official government business, members of commuter, community and home owner associations, students and employee-trainees. In addition, already certificated charter carriers are also providing employee transportation under contract with employers within the ambit of their broader charter authority.

In regulating such operations the Commission has discovered several problems suggesting that case-by-case market-entry control is basically incompatible with the inherent nature of most services now provided by charter-pursuant-to-contract carriers.

For example, it has not been unusual for a carrier to file an application covering a service scheduled to commence within 30 days of the filing date. This is a result of normal operation of the bidding process. A number of carriers may bid on a contract for the same service; the successful bidder, of course, is unknown until the bids are opened, and the bid-opening date may be scheduled by the purchaser only a few days in advance of the date the service is to begin. Service cannot begin without appropriate authority, and there is not enough time for the carrier to prepare and submit an application and for the Commission to process it, hold hearings if necessary, and issue a decision prior to the contract date. The result is frequently chaotic, resulting in the dissatisfaction of everyone concerned. On occasion, not knowing where lay their first obligation -- to the law of contract or of regulation -- some carriers have chosen to provide service without authority, thus calling into question their fitness, willingness and ability to comply with the provisions of the Compact and the regulations of the Commission.

In searching for a satisfactory solution it is apparent that lengthening the lead-time between bid opening and the start of service would ameliorate the situation. Although the staff has spoken repeatedly with officials and contracting officers of firms and agencies, the improvements thereby generated have been insufficient to resolve this dilemma. Employers, particularly government agencies, have their own procedural requirements, and they are not directly subject to our jurisdiction. The carrier is often not in a position to insist upon additional lead-time in which to comply with regulatory requirements. For the Commission's part, it would be an unconscionable waste to require and then entertain applications from all the carriers that may bid on a contract, knowing that only one can succeed.

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<sup>6/</sup> Commission Regulation 51-06(b).

As another example, contractors have occasionally found the carrier with which they have contracted unresponsive to their needs in terms of service or price. Although the contract will expire and may be advertised for bids at the end of the contract period, this is not true of the certificate that the contract-charter carrier now holds, which does not automatically terminate when the contract ends. Knowing that this certificate provides standing to oppose a new application, regardless of the purchaser's desires and requirements, the carrier may have little incentive to maintain competitive pricing, to be consistently conscientious in the provision of service, or to update and maintain its equipment as might be done in other, more competitive, circumstances. The result can well be mediocre service, arrogantly provided, at a high price.

With regard to price in particular, the ability of a certificated carrier to delay or thwart issuance of authority to a lower-bidding carrier (assuming the relative equality of other factors) is an anti-competitive feature which we seek to obviate. Subject only to the limitation pertaining to rates so unreasonably high that they, in effect, constitute an embargo<sup>7/</sup> on service, a "locked in" certificated carrier could attempt to raise its charges to the ceiling of the range available to the monopolist. By keeping the bidding system truly open this abuse can be avoided.

Exercising the Commission's power to revoke an existing certificate is a cumbersome procedure even where a purchaser is not receiving adequate service. Unless revocation of a certificate is requested by the carrier itself, the Commission must conduct a formal investigation including a public hearing held at the carrier's expense. While we do not propose to remove a carrier from the scene at the whim of a purchaser, we believe that where parties enter into a negotiated contractual arrangement in this area of the transportation field, there should be a mechanism for a periodic reevaluation of the terms of the contract by the parties, without regulatory intervention and without giving the existing carrier the power to bar other competitors from meaningfully entering the picture.

As noted above, Title II, Article XII, Section 15 of the Compact authorizes the Commission to make all orders and to prescribe such rules, regulations and procedures as are necessary and appropriate for its effective administration of said Title II. While ordinarily the Commission performs its licensing functions on a case-by-case basis, it perceives no reason why a more general licensing pursuant to the valid exercise of the Commission's rulemaking authority cannot serve as an appropriate means of efficiently carrying out its statutory mandate. The United States

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<sup>7/</sup> Traditionally, a showing that rates constitute an effective embargo against the movement of traffic has been required to warrant consideration of lower rates as a factor in support of an operating rights application. Cf. United Parcel Serv., Inc., Ext. -- Tenn., Ark. and Miss. Pts., 117 M.C.C. 621, 625 (1972), and Carl Subler Trucking, Inc., Ext. -- Southern States, 77 M.C.C. 707, 713 (1958).

Supreme Court has recognized the propriety of rulemaking by a regulatory agency charged with licensing duties as an effective alternative to the case-by-case adjudication method,<sup>8/</sup> and the Interstate Commerce Commission has utilized its rulemaking authority on two occasions to issue special certificates based on general findings of public convenience and necessity on a nationwide scale.<sup>9/</sup> In our view, this Commission may adopt rules for the declaration of prospective licensing criteria where the rules reflect policy based upon the general characteristics of the class of transportation and are designed to eliminate the needless, time-wasteful adjudication of issues not in dispute.<sup>10/</sup>

The Commission does not intend by this process to prejudge future applications, but merely to state clearly the procedures and parameters by which they are to be judged. It is intended that the requirements for successful application for charter-pursuant-to-contract service be so unequivocally defined that the staff may identify successful applicants and authorize operations by those applicants without need of prolonged proceedings. Cases that present a need to exercise judgment will remain the province of the Commission and will continue to be set for full evidentiary hearings as in the past.

We shall attempt to ascertain in this proceeding whether there exists a general need for employee-type transportation apart from the strict case-by-case approach taken in the past. A general finding of need would allow this regulated area to be opened to price and service competition without the impediment of certificated contract charter carriers blocking the entry of other qualified potential carriers on the sole basis of their existing certificates. The Commission would still reserve jurisdiction to intervene where necessary and to ensure that prevailing fitness criteria are met.

To meet our responsibility regarding fitness, we propose to require that any carrier meeting the criteria for a certificate under the proposed rule, and entering a contract with an employer, must submit a tariff including a copy of the executed contract, evidence of adequate insurance and financial viability, evidence of satisfactory inspection of its vehicles, and such other data as is necessary for the Commission to

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<sup>8/</sup> See Weinberger v. Hynson, Wetcott & Dunning, Inc., 412 U.S. 609, 93 S.Ct. 2469, 37 L.Ed2d 207 (1973), F.P.C. v. Texaco, Inc., 377 U.S. 33, 84 S.Ct. 1105 (1964), rehearing denied 377 U.S. 974, 84 S.Ct. 1881 (1964), U.S. v. Storer Broadcasting Co., 351 U.S. 192, 76 S.Ct. 763 (1956).

<sup>9/</sup> See 49 CFR 1056.40, 49 CFR 1062, and Ex Parte No. MC-115, Used Household Goods -- Pack-and-Crate Operation, 131 M.C.C. 20 (1978).

<sup>10/</sup> Chemical Leaman Tank Lines, Inc. v. U.S., 368 F.Supp. 925 (D.C.Del. 1973).

assure itself that the applicant is fit, willing and able to perform the requested service.

Additionally, the Commission proposes to condition any specific tariff authorization granted under the proposed regulation to be co-extensive in duration with the life of the underlying contract and any continuous extension period. We feel that this procedure will allow employers either to continue using the services of a satisfactory carrier or to open up its business to the marketplace and obtain the service of another carrier. Existing carriers will be able to maintain their operations by entering a long-term contract, by meeting the purchasers' reasonable transportation needs, and by staying within the price range of the competition.

This proposed regulation shall apply to any carrier [as defined in the Compact, Title II, Article XII, Section 2(a)] subject to the jurisdiction of the Commission which enters a written agreement for a period in excess of 180 days with any government agency or person as defined in the Compact, Title II, Article XII, Section 2(e) for the purpose of transporting employees, trainees, members, students or those conducting official business with employers, schools, qualifying associations or government agencies between points in the Metropolitan District in charter operations pursuant to contract.

Such contract must be in writing and shall specify with particularity its term, the transportation to be performed, and the rates to be charged therefor. The agreement, together with an appropriate cover page, shall be considered a tariff within the meaning of Commission Regulation No. 55, and shall be subject to the requirements of that regulation and the Compact with respect to tariffs.

The proposed regulation obviously does not include all transportation which might be the subject of charter-pursuant-to-contract authority. Transportation of employees pursuant to a contract with an employer is the most common operation in this class. Viewing the employees as third-party beneficiaries of such a contract, it is apparent that the employer has an acute and continuing interest in assuring that the contracted-for transportation is performed in a timely, safe and comfortable manner. Moreover, the enduring relationship between an employer and the employees to be transported provides a meaningful opportunity for the employer to become aware of, and take steps to ameliorate, any dissatisfaction of the employee-passengers. The proposed regulation would also embrace trainees, students, persons traveling on official business and members of certain associations because such groups share significant characteristics with transported employees: the groups are relatively stable; they have a common purpose; they have a group relationship to the purchaser of their transportation similar to that of employees; and

they are third-party beneficiaries of an agreement between two other parties.

We note that employers who contract with carriers for the transportation of their own employees to and from work, or among various work locations, are often viewed by the law and by regulatory agencies in a somewhat different light than are transportation operations for the general public. One Compact signatory, the Commonwealth of Virginia, for example, has a statutory "employee-hauling exemption" which provides:

This chapter shall not be construed to include . . . Motor vehicles while used exclusively in transporting only bona fide employees directly to and from the factories, plants, offices or other places of like nature where they are employed and accustomed to work, provided that the operator of such vehicle shall first secure from the State Corporation Commission a permit . . . ; but any such permit or permit holder shall in all other respects be subject to the provisions of this section.<sup>11/</sup>

In our view, statutes such as this implicitly recognize that the normal regulatory barriers to market entry are unnecessary in this transportation activity. We believe that the same policy is applicable to carriers of the other above-specified groups, particularly inasmuch as the interests of employers, schools, government agencies and qualifying associations appear to be sufficient to protect the passenger groups from abusive carrier practices.

Turning again to Title II, Article XII, Section 4(b) of the Compact, specifically the language referring to the Commission's power to issue and condition certificates as the public convenience and necessity may require, we believe that a general finding of public convenience and necessity may be made on an appropriate record without any carrier filing an application.

In addition to expediting procedures and improving the responsiveness of the regulatory system, it is anticipated that a regulation easing market entry, if adopted, could make the market for charter-pursuant-to-contract services more freely competitive among the various existing and potential suppliers. This, in turn, could stimulate healthy competition in pricing and quality of service and equipment, resulting in improved standards of service. Improvements of this sort could, in turn, stimulate growth in the market for such services. In furtherance of these purposes, the Commission hereby publishes proposed Regulation No. 70 and solicits the comments of interested persons thereon.

Interested persons may comment on the proposed regulation appended hereto, in writing, within 30 days from the date of service of this notice.

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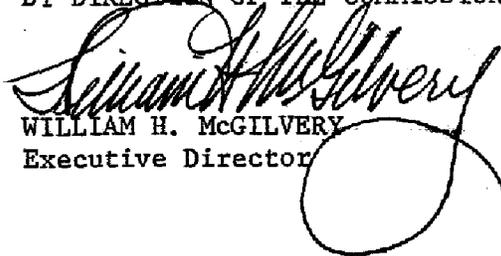
<sup>11/</sup> Code of Virginia (1950 Ed.) Section 56-274(5).

Comments should be specific and, where pertinent, supported by verified statements. File all comments with the Executive Director, WMATC, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006.

THEREFORE, IT IS ORDERED:

1. That proposed WMATC Regulation No. 70, as appended hereto, is hereby published for the purpose of eliciting public comments thereon.
2. That all carriers now holding authority from this Commission are hereby made parties to this proceeding.
3. That all interested persons submit their comments on proposed WMATC Regulation No. 70 in the manner directed herein no later than 30 days from the date of service hereof.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director

PROPOSED REGULATION NO. 70

70. Charter Operations Pursuant to Contract with Employers and Similarly Situated Persons.

70-01. Applicability. This regulation shall apply to persons engaged, or proposing to engage, in the irregular-route transportation for hire of employees, trainees, students, members of qualifying associations and persons traveling on official business, in charter operations (except sightseeing and pleasure tours) pursuant to contract with an employer, school, qualifying association or government agency, between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia. [See Compact, Title II, Article XII, Section 1(b).]

70-02. Definitions. For the purposes of this regulation, the following definitions shall apply:

(a) An "employee" is an individual engaged in providing service for another on a regular basis, in exchange for wages or salary subject to the income tax withholding provisions of the Internal Revenue Code.

(b) An "employer" is a person or governmental agency which regularly pays to individuals, in exchange for services, wages or salary subject to the income tax withholding provisions of the Internal Revenue Code.

(c) A "governmental agency" is any instrumentality of the United States, the signatories to the Compact or any political subdivision thereof.

(d) A "qualifying association" is a voluntary association, whether incorporated or unincorporated, of individuals having a continuing common interest and a common area, for purposes of transportation subject to this regulation, of origin or destination.

(e) A "person traveling on official business" is an individual other than an employee, student, trainee or member of a qualifying association (i) who is engaged in providing goods or services to the contracting employer, school, governmental agency or qualifying association, (ii) whose transportation is specifically authorized by the contracting employer, school, governmental agency or qualifying association, and (iii) whose transportation promotes the convenience of the contracting employer, school, governmental agency or qualifying association in obtaining said goods or services.

(f) A "school" is (i) a public elementary, secondary or post-secondary school operated by a signatory to the Compact (including the Federal government) or a political subdivision thereof, (ii) a private elementary or secondary school offering instruction deemed equivalent by a signatory or political subdivision thereof to the instruction given in a public school or (iii) a private school which is duly accredited by a signatory or political subdivision thereof or by another bona fide source of accreditation.

(g) A "student" is an individual enrolled in a public or private school.

(h) A "trainee" is an individual employee undergoing a course of instruction sponsored by his employer.

70-03. Scope. This regulation governs the filing and processing of applications for authority to conduct charter operations pursuant to contract with an employer, school, qualified association or governmental agency, transporting employees, trainees, students, members of qualifying associations and persons traveling on official business, between points in the Metropolitan District. Such operations shall be conducted pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation and shall be subject to the terms, conditions and limitations of said special certificate.

70-04. Applications to Operate Pursuant to the Special Certificate. Motor carriers desiring to perform operations pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation must file with this Commission a sworn and notarized application in the form prescribed by the Commission and containing the following: (1) the name and address of the applicant and the applicant's representative to whom inquiry may be made; (2) a precise description of the group to be transported and the points to and from which service is to be rendered; (3) a map of the area or points to be served; (4) a tariff, consisting of a title page [see Regulation No. 55-04] and a full and complete copy of the executed transportation contract between the applicant and the contracting employer, school, qualifying association or government agency; (5) a schedule for the proposed service (if not included in the contract); (6) a copy of applicant's articles of incorporation or partnership agreement (unless already on file with the Commission, in which instance reference to the case number in which such filing has been made shall suffice) or a statement that applicant is a sole proprietorship; (7) a full and complete current financial statement of the applicant including a recent balance sheet, a recent operating statement and a projection of revenue and revenue deductions to be generated by the subject contract operations, including allocable fixed expenses; (8) a current list of applicant's revenue vehicles, including make, model, year, serial number and passenger seating capacity (including the driver), evidence that said vehicles have been licensed, inspected and approved for transportation for hire operations by one or more of the signatories to the Compact, and a designation of which vehicles will be used for rendering service under the subject contract; (9) a full and complete statement of any authority

issued by this Commission to applicant; (10) designation of the applicant's resident agent for service of process [see Rule No. 5-04], if necessary; (11) a valid certificate of insurance [see Regulation No. 62 as amended by Order No. 1598, served August 25, 1976] or a statement that such a certificate is already on file with this Commission; (12) a statement of operational feasibility; and (13) a statement demonstrating the applicant's fitness to perform the proposed service including a certification that the applicant (or its chief operating officer) is familiar with the terms of the Compact and the rules, regulations and requirements of the Commission thereunder and will fully comply therewith, and also including detailed references to any proceedings, either completed or pending, in which applicant has been found unfit or in which its fitness is under investigation by this Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission or the United States Department of Transportation.

In addition, a sworn and notarized statement (which may be in letter form) from the contracting employer, school, qualifying association or government agency must be filed and it must contain the following information: (i) the identity of the contracting party in sufficient detail to permit determination of its status as a contracting party to which this regulation applies; (ii) the category of persons to be transported in sufficient detail to permit determination of its status as a ridership class to which this regulation applies; (iii) whether the subject transportation service has been rendered in the past and, if so, by what means of transportation; (iv) the number of persons in the group to be transported and a description of the service to be rendered; and (v) a statement that the contracting party has investigated the qualifications of the applicant and is satisfied with its ability properly to perform the proposed transportation.

70-05. Terms of Contracts. All contracts and extensions and renewals of contracts filed pursuant to this regulation shall be for fixed terms of not less than 181 days. Authorization to perform operations pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation terminates contemporaneously with the expiration of the underlying contract unless an appropriate tariff supplement including a continuous contract extension or renewal (which may be for a fixed term of less than 181 days) is filed at least five days prior to the expiration date of the underlying contract. Written notice must be filed by the carrier with the Commission within five days of any cancellation or termination of such contracts, renewals or extensions. Any proposed change, modification or amendment to such contracts, renewals or extensions shall be filed with the Commission for approval at least 5 days prior to the proposed effective date of such change or amendment; provided, however, that any change, modification or amendment which would involve a new contractor, a new group of passengers or new points of service shall be subject to the application provisions of subsection 70-04 of this regulation.

70-06. Processing of Applications to Operate Pursuant to the Special Certificate. The Executive Director or his designee shall review applications to operate pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation. Within three working days from the date of filing of an application under this section, the Executive Director or his designee shall direct publication of notice of the application. Protests shall be due no later than 10 days after the date on which notice is published. Protests shall be filed in writing, sworn and notarized, and shall contain all evidence and argument upon which the protestant would rely. Inasmuch as the issue of public convenience and necessity has already been determined in Case No. MP-79-04, protests may challenge only the fitness of the applicant or the conformance of the proposed operation to the provisions of this regulation. Upon expiration of the time set for filing of protests, the Executive Director or his designee shall review the pleadings and make a determination (a) of the applicant's fitness and (b) of the conformance of the proposed operation with the provisions of this regulation.

70-07. Determination by Executive Director. Where the Executive Director or his designee determines the above-referenced issues favorably to an applicant, said determination shall be reduced to writing and communicated to the parties of record. Upon receipt of such notification, operations may be commenced by the carrier pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation. Where the Executive Director or his designee determines either above-referenced issue against an applicant, said determination shall be reduced to writing and communicated to the parties of record. Upon issuance of such determination, the application shall stand denied.

70-08. Reconsideration. Upon receipt of an application for reconsideration of a determination by the Executive Director or his designee, the Commission shall make a prompt determination, with or without hearings or other formal proceedings, and shall issue an appropriate order. Applications for reconsideration filed under this regulation shall be governed by Title II, Article XII, Section 16 of the Compact.

70-09. Certificate. The special certificate of public convenience and necessity granted by Order No. \_\_\_\_\_, reads as follows:

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION  
SPECIAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY NO. 1  
CHARTER OPERATIONS PURSUANT TO CONTRACTS FOR EMPLOYEE-TYPE TRANSPORTATION

By Order No. \_\_\_\_\_ of the Washington Metropolitan Area Transit Commission  
issued \_\_\_\_\_ ;

AFTER DUE INVESTIGATION, It appearing that the described carriers have complied with the requirements of the Washington Metropolitan Area Transit Regulation Compact and the rules and regulations of the Commission there-

under and, therefore, are entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as carriers, for the reasons and subject to the limitations set forth in Order No.        and Commission Regulation No. 70;

THEREFORE, IT IS ORDERED, That the said carriers are hereby granted this special certificate of public convenience and necessity as evidence of the authority of the holders to engage in transportation as carriers by motor vehicles subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privileges granted to the said carriers.

IT IS FURTHER ORDERED, And made a condition of this certificate that the holders thereof shall render reasonable, continuous and adequate service to the contracting parties in pursuance of the authority granted and the tariffs filed in accordance with such authority and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of this certificate as to any such holder.

AND IT IS FURTHER ORDERED, That the transportation service to be performed by the said carriers shall be as follows:

CHARTER OPERATIONS PURSUANT TO CONTRACT,  
transporting employees, trainees, students,  
members of qualifying associations and persons  
traveling on official business, over irregular  
routes, between points in the Metropolitan  
District (except between points solely within  
the Commonwealth of Virginia as specified in  
Title II, Article XII, Section 1(b) of the  
Compact), restricted against the performance  
of sightseeing or pleasure tours.

#### TERMS, CONDITIONS AND LIMITATIONS.

(i) The charter operations pursuant to contract authorized by this special certificate of public convenience and necessity shall be limited to the performance of service pursuant to continuous bilateral contracts as set forth in the carriers' respective tariffs filed pursuant to Commission Regulation No. 70.

(ii) The authority granted herein, to the extent that it duplicates any authority otherwise granted to or held by a participating carrier, shall not be construed as conferring more than a single operating right.

(iii) The authority granted herein is not transferable by sale or otherwise.

(iv) The authority granted herein terminates automatically, with respect to any contract or contract extension or renewal filed pursuant to Commission Regulation No. 70, when said contract, renewal or extension expires without being extended or renewed in accordance with Regulation No. 70-05, or when the contract, renewal or extension is otherwise cancelled or terminated.

(v) The authority granted herein may be suspended by the Executive Director or his designee for failure to comply with the requirements of the Compact and the Commission's rules, regulations and orders thereunder, including, but not limited to, failure of the carrier to maintain a current certificate of insurance or to file required reports.

70-10. Identification. Any carrier authorized to conduct operations pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation shall be issued a special identification number unless said carrier also holds a regularly-numbered certificate of public convenience and necessity. Carriers not holding a regularly-numbered certificate of public convenience and necessity shall identify all motor vehicles operated as required by Commission Regulation No. 68; provided, however, that, for purposes of Regulation No. 68-01, the carrier shall substitute for a certificate number its special certificate number in the following form: "WMATC Special No. . . .".

70-11. Special Provisions for Carriers Heretofore Certificated Specifically to Perform Charter Operations Pursuant to Contract. Within 30 days from the effective date of this regulation, the Executive Director or his designee, shall issue authorization to all carriers heretofore certificated specifically to conduct charter operations pursuant to contract to continue such operations pursuant to the special certificate of public convenience and necessity set forth in subsection 70-09 of this regulation to the extent said operations are the subject of effective tariffs (including contracts) then on file with the Commission. No application pursuant to subsection 70-04 shall be required for issuance of such authorization. Upon the 60th day after the effective date of this regulation all certificates of public convenience and necessity authorizing charter operations pursuant to contract (except the special certificate set forth in subsection 70-09 of this regulation) shall, to that extent, stand terminated and no charter operations pursuant to contract shall be conducted pursuant thereto. The Executive Director or his designee shall cause revised certificates of public convenience and necessity to be issued as appropriate.