

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2089

IN THE MATTER OF:

Served March 4, 1980

Application of MOBILE CARE, LTD.,)
for a Certificate of Public)
Convenience and Necessity to)
Perform Special Operations -- Non-)
Emergency Medical Transportation)

Case No. AP-79-19

By application filed December 20, 1979, Mobile Care, Ltd., seeks a certificate of public convenience and necessity to perform special operations transporting "handicapped people confined to wheelchairs on non-emergency ambulatory basis, trips to be scheduled by appointment. Not to include patients of District of Columbia Department of Human Resources (Medicaid program)." By Order No. 2074, served January 7, 1980, and incorporated by reference herein, the Commission set this proceeding for a public hearing which was held on February 5, 1980. No party appeared in opposition. At the hearing Mobile Care confirmed the Commission's presumptions in Order No. 2074 that the application is for the transportation of non-ambulatory rather than ambulatory persons, and that the scope of the application is between points throughout the Metropolitan District.

Mobile Care was granted temporary authority in Order No. 2041, served October 1, 1979, and incorporated by reference herein, to transport handicapped persons confined to wheelchairs, together with their baggage and attendants (except those persons participating in the Medicaid program administered by the District of Columbia Department of Human Resources), in special operations, between points in the Metropolitan District, restricted to the performance of such operations in vehicles with a manufacturer's designed seating capacity of fifteen passengers or less excluding the driver.

The general manager and business manager of Mobile Care both testified at the public hearing. The general manager stated that applicant has been in business for a number of years but only recently discovered that the previous owners had not obtained appropriate authorization to operate from this Commission. Upon discovery of this problem applicant sought, and eventually received, temporary authority

to conduct operations. 1/ While the temporary authority application was pending, passengers were given service free of charge. Mobile Care regularly operates one van equipped for wheelchair service and maintains a back-up vehicle, according to the general manager. Additional growth in operations would probably result in the purchase of newer equipment. Projections for applicant's business include purchase of a new van in the summer of 1980 if this application is granted. Mobile Care operates throughout the Metropolitan District and, although it prefers 24-hour notice for service requests, provides service on "short notice" when necessary.

Applicant's business manager testified that the data on the financial statement introduced into evidence include applicant's wheelchair operations and its separate school bus transportation for special education children. He stated that, based on operations pursuant to temporary authority and the results of a short-lived advertising campaign (abandoned when the Commission directed Mobile Care to cease and desist for-hire service upon initial denial of the temporary authority application), Mobile Care projects profitable operations in the future.

Both the general manager and the business manager indicated that the school transportation service is separate from the wheelchair operations and that they are aware that the vehicles may not be commingled without loss of the so-called "school bus exemption" from regulation provided by Title II, Article XII, Section 1(a)(3) of the Compact.

In support of the application a number of witnesses, who either use Mobile Care's service or arrange for transportation, presented testimony. A provider of non-emergency medical transportation also testified. Three people who have used applicant's service generally testified that they are satisfied with the expeditious and courteous service offered in a clean vehicle outfitted with appropriate safety equipment. They have called upon Mobile Care on numerous occasions, sometimes on short notice, and have received prompt service in almost every instance. Their transportation needs have been limited almost exclusively to trips between residences and hospitals or doctors' offices, all within the District of Columbia.

The wife of one of the witnesses who uses Mobile Care's service testified that she was referred to applicant by Group Health Association, Inc., a health maintenance organization. She attempted to

1/ Order No. 2016, served August 7, 1979, denied the application for temporary authority. Subsequently, Order No. 2041 granted reconsideration of the prior decision, and authorized temporary operations.

secure service from two other wheelchair transportation companies but was unsuccessful. Mobile Care has always been able to provide service when needed. At this point, all service has been between points in Washington, D. C., but the witness stated that service to a medical building in Prince George's County, Md., will be needed in the future.

Two witnesses who arrange transportation for people confined to wheelchairs expressed satisfaction with Mobile Care's service. One witness, the Director of Nursing for a nursing care facility in Bethesda, Md., has recommended Mobile Care to the patients, having found other carriers inconsistent. She has never been turned down for a service request, even when short notice was given, whereas other carriers assertedly require as much as two weeks notice. The number of trips performed for nursing home patients varies from month to month from as few as two or three to as many as 12 to 14. Destinations usually are doctors' offices or hospitals in the Maryland suburban area or the District of Columbia. During the period that Mobile Care was directed to cease for-hire operations, transportation was provided for approximately 8-10 nursing home patients free of charge, according to the witness.

A representative of the Washington Transportation Alliance, a research and development firm concerned with transportation for the handicapped and elderly, testified that (among other functions) the Alliance was acting as a broker of transportation services. After investigation of various services available, Mobile Care was selected by the Alliance as a responsible carrier, capable of providing satisfactory service often on short notice. The witness stated that a survey of the available transportation in the District of Columbia indicated the inadequacy of the existing equipment pool for the elderly and handicapped population. All transportation arranged by the Alliance was performed between points in the District of Columbia for vocational and educational classes, therapy sessions and commuting to and from work.

Rosetta Murray, sole proprietor of a non-emergency medical transportation company and holder of WMATC Certificate of Public Convenience and Necessity No. 63, testified that there is sufficient need for additional service in the Metropolitan District, although she has never had to turn down requests for service because of full capacity.

With a post-hearing Motion for Leave to Supplement the Record, filed February 15, 1980, applicant has submitted copies of service invoices covering transportation to, from and between points in Virginia for the years 1977, 1978 and 1979. The motion will be granted, permitting applicant to supplement the record. A review of the invoices indicates a number of trips between Virginia residences

(within the Metropolitan District) and hospitals, doctors' offices or nursing homes in the District of Columbia, and between points in the District of Columbia and Washington National Airport, Gravelly Point, Va. Certain other invoices manifest trips conducted entirely between points in the Commonwealth of Virginia and will not be considered herein. 2/

The Compact, Title II, Article XII, Section 4(b) provides that a certificate of public convenience and necessity shall be issued by the Commission if it finds ". . . that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of the 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 finds that applicant has sustained its burden of proof regarding the matter of need for additional service to that segment of the population using van equipment outfitted to transport persons confined to wheelchairs throughout the Metropolitan District. Applicant's witnesses expressed satisfaction with operations performed under temporary authority and stated an inability in many cases to obtain service from other sources. None of the carriers operating in the "medi-van" field appeared in opposition to this application, thereby lending additional credence to the testimony indicating that a need exists for the additional service to be rendered by Mobile Care.

The record in this proceeding also establishes that Mobile Care has sufficient, suitable equipment available and that it is financially fit to conduct the service authorized herein. With respect to the matter of compliance fitness, the evidence shows that Mobile Care has abided by prior WMATC directives to adhere to the rules and regulations of the Commission subsequent to applicant's discovery of the need for authority to conduct its operations.

The authority granted will be restricted to the performance of transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less excluding the driver, in conformance with the evidence of record, and will be further restricted against service solely between points in the Commonwealth of Virginia. (See footnote 2, supra.) Finally, applicant will be directed to maintain separate books and records for its "medi-van" operations conducted pursuant to Commission authority, and is reminded of the need to segregate vehicles used in exempt school operations from those used in Commission-authorized operations.

2/ See Compact, Title II, Article XII, Section 1(b).

THEREFORE, IT IS ORDERED:

1. That the motion of applicant for leave to supplement the record in this proceeding is hereby granted.

2. That Mobile Care, Ltd., is hereby granted authority to perform special operations, over irregular routes, transporting non-ambulatory persons confined to wheelchairs (except those persons participating in the Medicaid program administered by the District of Columbia Department of Human Resources) together with their baggage and attendants between points in the Metropolitan District, restricted to the performance of such operations in vehicles with a manufacturer's designed seating capacity of fifteen passengers or less excluding the driver and restricted against operations conducted solely between points in Virginia.

3. That applicant is hereby directed to file with the Commission notice that its equipment is properly outfitted with wheelchair restraining devices and safety equipment and is available for inspection.

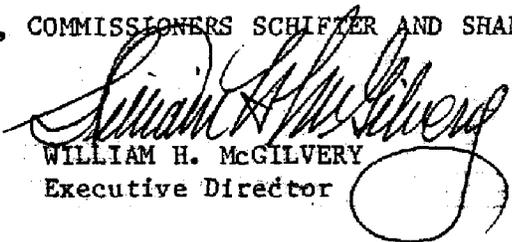
4. That upon compliance by applicant with the directive set forth in paragraph (3) above and successful inspection of applicant's equipment, an appropriate certificate of public convenience and necessity shall be issued.

5. That Mobile Care, Ltd., is hereby directed to maintain separate accounts and records with respect to its finances and, in all future filings with the Commission, to submit financial statements and other data to include (a) the operations conducted pursuant to Commission authority and (b) total company operations.

6. That the temporary authority granted in Order No. 2041 to Mobile Care, Ltd., will stand cancelled upon the issuance of a certificate of public convenience and necessity.

7. That in the event Mobile Care, Ltd., fails to comply with the directives set forth above within 30 days, or such further time as may be authorized, the grant of authority made herein will be considered void and the application will stand denied in its entirety effective upon expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director