

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO.2098

IN THE MATTER OF:

Served April 8, 1980

Application of GREYHOUND AIRPORT)
SERVICE, INC., for Authority to)
Surrender Certificate No. 7 and)
Abandon Operations)

Case No. AP-80-09

By application filed March 28, 1980, Greyhound Airport Service, Inc. (Greyhound), seeks to discontinue operations as a carrier and surrender its Certificate of Public Convenience and Necessity No. 7, which authorizes, generally, irregular-route transportation between Washington National Airport and Dulles International Airport, on the one hand, and, on the other, points in the Metropolitan District. While Greyhound provides both charter service and individually-ticketed operations, the predominant share of its service is provided on a per-trip basis. Applicant states that the filing is made under protest and without waiver of its right to challenge the injunction entered by the United States District Court for the District of Columbia in Washington Metropolitan Area Transit Commission v. Greyhound Airport Service, Inc., F. Supp. _____, Civil Action No. 80-0657, served March 25, 1980, which holds that Greyhound may not abandon service without order of the Commission.

Title II, Article XII, Section 4(i) of the Compact, which is the basis for the Court's decision, states that:

No carrier shall abandon any route specified in a certificate issued to such carrier under this section, unless such carrier is authorized to do so by an order issued by the Commission. The Commission shall issue such order, if upon application by such carrier, and after notice and opportunity for hearing, it finds that the abandonment of such route is consistent with the public interest. The Commission, by regulations or otherwise, may authorize such temporary suspensions of routes as may be consistent with the public interest. The fact that a carrier is operating a route or furnishing a service at a

loss shall not of itself, determine the question of whether abandonment of the route or service over the route is consistent with the public interest as long as the carrier earns a reasonable rate of return.

Greyhound asserts that inasmuch as it ". . . is not earning a reasonable rate of return, such circumstance requires a finding that 'abandonment of the route or service over the route is consistent with the public interest.'" (Emphasis in original). It cites losses approaching a quarter of a million dollars for the period December 1979 through March 1980 and notes its letter of March 7, 1980, to the Commission, in which applicant proposed to surrender its certificate because of expiration of the service contract with the Federal Aviation Administration, unacceptable provisions in a new contract proposal, and sustained operating losses.

Alleging that a reasonable period of time to find a replacement carrier has already elapsed, Greyhound contends that the Commission must act expeditiously on its application for abandonment ". . . in order to prevent further losses to applicant which would constitute an unconstitutional taking of property."

According to the statutory provisions of Section 4(i), this matter will be scheduled for a hearing and applicant will be assessed a sum preliminarily estimated to cover the expenses of the hearing, pursuant to Title II, Article XII, Section 19(a) of the Compact.

Given the financial circumstances attendant to Greyhound's service and the issuance of temporary authority to Airport Limo, Inc., by Order No. 2097 entered this date, to provide public transportation service at National and Dulles Airports, the Commission will authorize temporary suspension of Greyhound's operations, as permitted by Title II, Article XII, Section 4(i) of the Compact.

THEREFORE, IT IS ORDERED:

1. That Greyhound Airport Service, Inc., is hereby authorized to temporarily suspend operations effective at 4:00 a.m., April 10, 1980, pursuant to Title II, Article XII, Section 4(i) of the Compact.
2. That the above-entitled matter is hereby scheduled for public hearing to commence at 9:30 a.m., Wednesday, May 21, 1980, in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.
3. That Greyhound Airport Service, Inc., 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, no later than Monday, April 21, 1980.

4. That Greyhound Airport Service, Inc., produce at the public hearing an affidavit of said publication.

5. That any person desiring formally to protest the application 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 Monday, May 5, 1980, and shall mail a copy of such protest or notification to counsel for applicant, L. C. Major, Jr., Esquire, 400 Overlook Office Building, 6121 Lincolnia Road, Alexandria, Va. 22312.

6. That Greyhound Airport Service, Inc., is hereby assessed \$350 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 12 noon, Wednesday, May 14, 1980.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director 