

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2114

IN THE MATTER OF:

Served May 27, 1980

Application of DAVID C. PEARSON)
T/A E & H TRANSPORTATION COMPANY)
for a Certificate to Perform)
Special Operations -- Lorton, Va.)

Case No. AP-80-12

By application filed April 10, 1980, David C. Pearson trading as E & H Transportation Company (Pearson) seeks a certificate of public convenience and necessity to transport passengers in special operations between Washington, D. C. and the District of Columbia Department of Corrections facility at Lorton, Va. Applicant states that he will provide an on-call door-to-door service picking up and returning passengers at their residence, concentrating in the areas near Georgia Avenue & Florida Avenue, N. W., and Martin Luther King Avenue & Good Hope Road, S. E. Pursuant to Order No. 2100, served April 14, 1980, and incorporated by reference herein, a public hearing on the matter was scheduled for May 12, 1980. Applicant submitted evidence that he had published notice of his application in a newspaper as required. No protest to the application was filed, and by motion filed May 6, 1980, pursuant to Commission Rule 22-01, applicant requested that the Commission waive the public hearing and proceed on the evidence of record. By Order No. 2109, served May 9, 1980, the staff cancelled the public hearing and referred the motion to the Commission for determination. The motion will be granted.

Pearson holds Certificate of Public Convenience and Necessity No. 53 from this Commission authorizing the non-emergency transportation of persons confined to wheelchairs and participating in the Medicaid program administered by the District of Columbia Department of Human Services. In addition, Pearson performs charter service pursuant to a contract with the Southeast Neighborhood House under Special Certificate of Public Convenience and Necessity No. 1.

The charge for the proposed new service is \$6 per person round-trip. Service would be offered Monday through Friday in the evening and on weekends and holidays during the day, in accordance with scheduled visiting hours. Two vehicles would be acquired specifically

for this service. Applicant has filed a projected revenue and revenue deductions statement based on one year's operation of the Lorton service. This application is unopposed.

A previous, similar application of Pearson drew opposition from the District of Columbia Department of Transportation (DCDOT). That agency stated that Pearson's service, as then proposed, would compete directly with a newly-instituted Metrobus service which is heavily subsidized, providing service to Lorton from downtown for one-way fares of \$1.25 for adults and \$.60 for children ages 5 to 12. Pearson voluntarily withdrew that application.

DCDOT's protest, however, suggested a need for a door-to-door type service as here proposed by Pearson. In fact, Pearson's proposed areas of concentration of service (a subject discussed below) reflect those suggested in the earlier protest. DCDOT also responded to the present application, but this time with strong support, ". . . provided that no fixed route operations with downtown pick-up points are permitted." DCDOT states that, "Based upon requests received by this Department, there appears to be a substantial market available for a service of this nature." The agency cites figures from studies by both Metro and the D. C. Department of Corrections in support of this assertion. In conclusion DCDOT stated ". . . we support the request . . . to transport passengers between Washington, D. C. and the correctional facility at Lorton in the manner proposed in this application."

The neighborhoods near the intersections of Georgia & Florida Avenues, N. W., and Martin Luther King, Jr. Avenue & Good Hope Road, S. E., have been suggested by DCDOT as potential markets for the specialized service here offered by Pearson. Pearson has responded by specifically mentioning these areas in his application which we read as including the entire District of Columbia. Since the proposed service would be provided on an on-call basis, we are at something of a loss to see how one could focus this type of service on a particular neighborhood. One could focus promotion of the service, but it seems clear that the single most efficacious place to promote the service would be at the Lorton facility. Nor can we see any reason to restrict the proposed service to specific neighborhoods and thus foreclose the service to others who may need it. Metro's subsidized operation serving 11th & G Streets, N. W., and 10th Street & Pennsylvania Avenue, N. W. would be adequately protected by the different type of service proposed by applicant (door-to-door residential service) and by the disparity in price to the user. We believe these services can coexist, and, in accordance with DCDOT's request, we will not authorize Pearson to engage in "fixed route operations with downtown pick-up points."

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 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 finds that applicant has sustained his burden of proof regarding the matter of need for service.

Applicant will be expected to promote the service and to provide a report on his efforts to promote the service. Applicant will also be directed to present its newly acquired vehicles for inspection.

THEREFORE, IT IS ORDERED:

1. That the pending motion of applicant to waive public hearing and proceed on the evidence of record is hereby granted.

2. That David C. Pearson trading as E & H Transportation Company is hereby granted authority to transport passengers, in special operations, between Washington, D. C., and the District of Columbia Department of Corrections facility at Lorton, Va., restricted to picking up passengers at, and returning passengers to, residences in the District of Columbia, such authority to become effective 30 days from the date of service hereof, unless otherwise ordered by the Commission, upon compliance with the requirements of this order and upon issuance of appropriate authority.

3. That David C. Pearson trading as E & H Transportation Company is hereby directed to file two copies of an appropriate WMATC Tariff, in accordance with the authority granted herein, within 20 days from the date of service hereof, such tariff to be effective upon acceptance by the Executive Director.

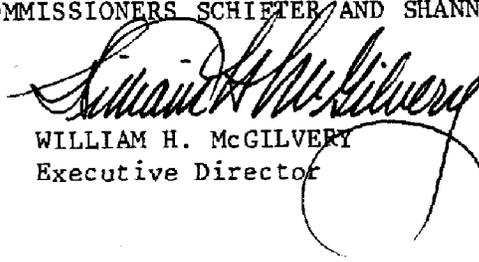
4. That David C. Pearson trading as E & H Transportation Company is hereby directed to file with the Commission notice that its equipment is available for inspection and an affidavit of compliance with Commission Regulation No. 68 governing identification of motor vehicles within 20 days from the date of service hereof.

5. That upon timely compliance with the requirements of paragraphs (3) and (4), and successful inspection of the involved vehicles, an appropriately revised Certificate of Public Convenience and Necessity No. 52 shall be reissued to David C. Pearson trading as E & H Transportation Company.

6. That in the event David C. Pearson trading as E & H Transportation Company fails to comply with the directives set forth above within 30 days, or within such further time as may be authorized, the granted of authority made herein shall be considered null and void

and the application shall stand denied in its entirety effective upon expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHIETER AND SHANNON:

A handwritten signature in cursive script, appearing to read "William H. McGilvery". The signature is written in dark ink and is positioned above the printed name and title.

WILLIAM H. MCGILVERY
Executive Director