

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2158

IN THE MATTER OF:

Served October 31, 1980

Application of VIENNA CHECKER CAB, )  
INC., for Temporary Authority to )  
Conduct Charter Operations Pursuant )  
to Contract -- Office of Surface )  
Mining )

Case No. AP-80-30

By application filed October 27, 1980, Vienna Checker Cab, Inc., seeks temporary authority to engage in charter operations pursuant to a contract with the Office of Surface Mining (OSM) transporting agency employees, together with mail and express in the same vehicle with passengers, between OSM facilities at the Interior South Building, 1951 Constitution Avenue, N. W., Washington, D. C., and 845 South Picket Street, Alexandria, Va., in a regularly scheduled shuttle service.

Applicant proposes to provide service in two Mercedes-Benz buses, one seating 16 passengers and the other having a 19-passenger capacity. The proposed service, to be run between 7:30 a.m. and 4:30 p.m., would be provided at the rate of \$153 per day. By the terms of the contract, funding exists for two months (November 3, 1980, through December 30, 1980), although the scheduled period of performance is from November 3, 1980, through April 30, 1981.

With respect to the need for service, applicant states that OSM awarded a contract to Vienna Checker on October 22, 1980, with services scheduled to start on November 3, 1980. The short lead time necessitates an application for temporary authority inasmuch as there is insufficient time to file for and receive authorization to operate pursuant to Special Certificate of Public Convenience and Necessity No. 1, according to applicant. No support for the application, other than an unexecuted copy of the contract, has been tendered by OSM.

On October 28, 1980, Beltway Limousine Service, Inc., filed a protest to the application stating that it is ". . . fit, capable, and willing to provide this service. Beltway Limousine Service presently has extra equipment sitting idle and needs the work to maintain a stable operation."

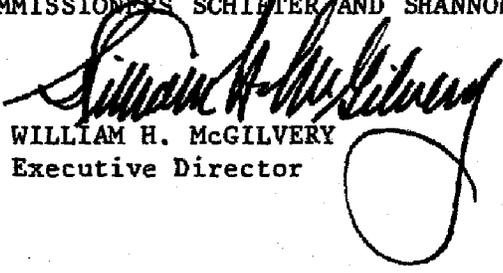
Title II, Article XII, Section 4(d)(3) of the Compact provides that the Commission may grant temporary authority where ". . . there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need." The Commission finds that applicant has failed to meet its burden of proof with respect to both the need for service and the lack of available carrier service.

Protestant Beltway is capable of providing the proposed service, clearly necessitating denial of this application inasmuch as the second temporary authority criterion has not been met. Furthermore, there is no support from OSM indicating an immediate and urgent need for service. The record contains only a self-serving statement by applicant asserting a need for temporary authority because of the impending commencement of service. An unexecuted contract solicitation, standing alone, is insufficient to support a finding of immediate and urgent need.

Our denial of the application, of course, is without prejudice to applicant's right to file and prosecute an application under Commission Regulation No. 70 if an appropriate contract is actually executed.

THEREFORE, IT IS ORDERED that the above-captioned application is hereby denied.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHLETER AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director