

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2209

IN THE MATTER OF:

Served March 31, 1981

Application of INTERNATIONAL	)	Case No. CP-81-06
LIMOUSINE SERVICE, INC., for	)	
Special Authorization to Perform	)	
Charter Operations Pursuant to	)	
Contract - U. S. Department of	)	
Justice	)	

By application filed March 13, 1981, as supplemented on March 17, 1981, International Limousine Service, Inc., seeks authorization to operate pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1 under a contract with the United States Department of Justice, transporting employees and persons traveling on official business with Justice, and mail, over irregular routes, between Justice offices at 4340 East-West Highway, Bethesda, Md., and 633 Indiana Avenue, Washington, D. C. 1/

Order No. 2206, served March 18, 1981, generally describes the evidence submitted with the application and that order is incorporated by reference herein. The Commission required publication of notice of the application and provided for the filing of protests, if any. Notice of the application was duly published, and Beltway Limousine Service, Inc., filed a protest in response to that notice.

Beltway holds authority to provide charter service between points in the Metropolitan District restricted to the performance of operations in vehicles having a manufacturer's designed seating capacity of 15 persons or less (including the driver). 2/

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1/ The contract for service is actually between Justice and the Small Business Administration with the Small Business Administration subcontracting for service with International.

2/ Certificate of Public Convenience and Necessity No. 25.

Specifically, Beltway is providing service for the Department of Justice similar to that applied-for herein, and has on file with the Commission a copy of the contract underlying that service. 3/ The terms of the contract indicate that the service is to expire April 3, 1981.

Beltway argues that an investigation of International's status as a participant in the Small Business Administration (SBA) "8A" program is in progress and that since the contract with Justice was negotiated through the SBA, the Commission should not grant the application for authority herein until the investigation is completed and a final determination of International's status is made. Beltway also argues that although the contract submitted by International is for a period of 183 days (April 1, 1981 - September 30, 1981), Beltway in fact is to provide service pursuant to its contract through April 3, 1981. Protestant avers that a Department of Justice representative so stated, and informed Beltway that International would begin service on April 6, 1981. Beltway thus contends that International's service is for a period of only 178 days (April 6, 1981 - September 30, 1981) falling short of the required 181-day minimum for contracts processed under Commission Regulation No. 70. 4/

With respect to Beltway's first assertion, Congress, acting in conjunction with the signatory states, has given the Commission jurisdiction coextensive with the Metropolitan District for the regulation and improvement of transit and the alleviation of traffic congestion within the Metropolitan District on a coordinated basis. Compact, Title I, Article II. The ongoing SBA investigation of International is neither an area for Commission inquiry nor a determinant of Commission action. The Commission's responsibility is enforcement of the Compact which constitutes the immediate frame of reference for deciding this proceeding.

Beltway's allegation that the proposed service does not meet the 181-day minimum contract period required by Regulation No. 70-05, manifests a substantive conflict of the evidence on record. The terms of International's contract with the SBA and the SBA contract with Justice are for 6 months (April 1 - September 30, 1981) with an option for Justice to extend service up to 24 months. The option to extend service lies with Justice and it is clear that there is no legal obligation to exercise the option; thus that 24-month period is not includible in computing the minimum number of days required by Regulation No. 70-05.

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3/ Beltway's WMATC Tariff No. 12.

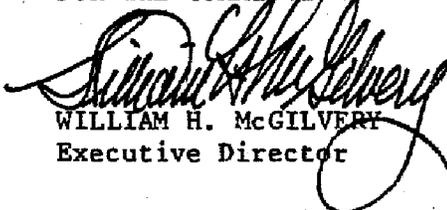
4/ Commission Regulation No. 70-05. See Order No. 2004, adopting Regulation No. 70, served June 20, 1979, and effective July 21, 1979.

The existence of two contracts for the period April 1 - April 3, 1981, is cause for further inquiry by the Commission to resolve an apparent conflict as to who will be providing service. It would be deemed unlikely that Justice is going to use two carriers for the same service during that period. In determining an application for authority the Commission is concerned with the substance of the service to be performed and not merely the form of the proposal. The 181-day minimum period was made a part of Regulation No. 70 specifically to preserve the short-term charter market for carriers holding general charter authority, and to prevent abuses of the eased market-entry system. 5/ In addition, the 181-day minimum contract period avoids any conflict of interpretation or transgression of the limitations imposed on our discretion by Title II, Article XII, Section 4(d)(3) of the Compact governing temporary authority. 6/

Inasmuch as Beltway's contract with Justice does not terminate until April 3, 1981, and International would commence service on April 6, 1981, 7/ the contract for the proposed service covers only 178 days of actual operation. Where, as here, there is a question as to the conformance of the proposed operation with the provisions of Regulation No. 70, the Commission must be satisfied that in fact the requirements of the regulation are met. Accordingly, the Executive Director finds that the present record requires a determination that the contract for the proposed service does not meet the requirements of Regulation No. 70.

THEREFORE, IT IS ORDERED that Case No. CP-81-06 of International Limousine Service, Inc., is hereby denied.

FOR THE COMMISSION:



WILLIAM H. MCGILVER  
Executive Director

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5/ Order No. 2004 at page 11.

6/ See Order No. 2131, served July 30, 1980.

7/ Beltway's statement that they will be the sole carrier through April 3, 1981, has been confirmed by Justice.

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