

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2234

IN THE MATTER OF:

Served June 19, 1981

Application of CALL-A-MESSENGER, )  
INC., for Authorization to Perform )  
Charter Operations Pursuant to )  
Contract with Air France )

Case No. CP-80-05

Application of CALL-A-MESSENGER, )  
INC., for Temporary Authority )  
to Serve Air France )

Case No. AP-81-15

Application of CALL-A-MESSENGER, )  
INC., for Reauthorization to )  
Perform Charter Operations Pursuant )  
to Contract with Air France )

Case No. CP-81-08

In Case No. CP-80-05, Call-A-Messenger, Inc. (CAM), was granted authority to conduct charter operations pursuant to a contract with Air France between Dulles International Airport, on the one hand, and, on the other, hotels located in the District of Columbia. The underlying contract had conflicting provisions and could be read as providing for a term of 181 days, one year or an indefinite term. CAM was directed to clarify this contract by Order No. 2148, served October 3, 1980, but made no effort to comply with that directive. Accordingly, the authority granted was limited to 181 days, and CAM was advised in Order No. 2159, served October 31, 1980, that "[i]n the event that this contract is to extend beyond 181 days, the burden shall be upon applicant to so notify the Commission as required by Commission Regulation No. 70." No such advice was ever received and Authorization No. SP-55-04 expired on April 30, 1981.

On June 17, 1981, CAM filed a motion (letter) for the first time asserting that the contract was intended to be for a term of one year from November 1, 1980, through October 31, 1981. Assertedly, then, Order No. 2159, which limits authority to 181 days is null and void as being in conflict with our Regulation No. 70. In the alternative, CAM urges that a new order issue extending Authorization No. SP-55-04 until October 31, 1981. CAM does not believe that it is bound by the five-day notification requirement of Commission Regulation No. 70-05, but requests that the requirement be waived in the event that we disagree with CAM's assumption.

CAM also filed an application for temporary authority to provide service to Air France as an alternative to reinstatement of Authorization No. SP-55-04. In support of the temporary authority application, a copy of the original contract is attached. Applicant states that Air France requires service "commencing June 19, 1981," and contends that the void left by the expiration of Authorization No. SP-55-04 elevates Air France's need to the "immediate and urgent" level required by Title II, Article XII, Section 4(d)(3) as a precondition for our exercise of discretion in granting temporary authority. CAM also states that it is aware of no other carrier which is willing to provide similar contractual service to Air France.

Case No. CP-81-08 essentially is a duplicate of Case No. CP-80-05 and relies on the same underlying contract.

All motions to extend, reinstate, or take any other action with respect to Authorization No. SP-55-04, except to confirm its expiration on April 30, 1981, are hereby denied. CAM twice ignored specific directives to clarify the term of the contract.

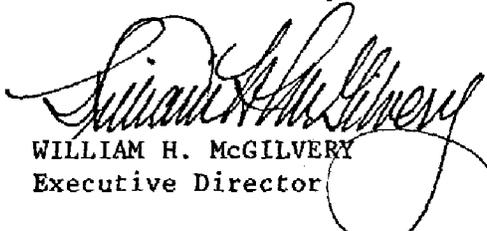
Case No. AP-81-15 is also denied. There is no allegation that Airport Limo, Inc., or some other carrier cannot provide the service required on June 19, 1981. In any event, taxicab service at party rates would be available to the Air France crews. Our staff has also been notified by Executive Limousine Service, Inc., that it is interested in negotiating a long-term contract with Air France.

Finally, we note that the contract, as interpreted by applicant, has less than 181 days remaining before its expiration. Hence, Case No. CP-81-08 does not qualify for consideration under Regulation No. 70.

THEREFORE, IT IS ORDERED:

1. That the request for relief in Case No. CP-80-05 is hereby denied.
2. That the application in Case No. AP-81-15 is hereby denied.
3. That Case No. CP-81-08 is hereby dismissed.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director