

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2282

IN THE MATTER OF:

Served November 24, 1981

Application of DEL-MAR TRAVEL)
AGENCY for a Certificate of)
Public Convenience and Necessity)
to Perform Special Operations --)
National Airport)

Case No. AP-81-13

Application of AIRPORT LIMO, INC.,)
for a Certificate of Public)
Convenience and Necessity to)
Perform Special Operations to and)
from Washington National Airport)

Case No. AP-81-16

INTRODUCTION

By application filed June 2, 1981, in Case No. AP-81-13, Del-Mar Travel Agency (Del-Mar), a limited partnership, seeks a certificate of public convenience and necessity pursuant to Title II, Article XII, Section 4(b) of the Compact to transport passengers together with their baggage in the same vehicle, in special operations, from the Del-Mar Travel Agency at 499 South Capitol Street, S. W., Washington, D. C., to Washington National Airport with an intermediate stop at South Capitol and C Streets, S. E., Washington, D. C. Pursuant to Order No. 2233, served June 12, 1981, and incorporated by reference herein, a public hearing on this application was held on July 22, 1981. Airport Limo, Inc. (Airport Limo), and the Federal Aviation Administration- Metropolitan Washington Airports (FAA) appeared in opposition to the application.

By application filed June 18, 1981, in Case No. AP-81-16, Airport Limo, Inc., seeks a certificate of public convenience and necessity to engage in special operations, transporting passengers and their baggage, in the same vehicle with passengers, between Washington National Airport, on the one hand, and, on the other, the Hyatt Regency Hotel, 400 New Jersey Avenue, N. W., the Quality Inn-Capitol Hill, 415 New Jersey Avenue, N. W., the United States Capitol, the Mayflower Hotel, 1127 Connecticut Avenue, N. W., and the Shoreham Hotel, 2500 Calvert Street, N. W., all in the District of Columbia. Pursuant to Order No. 2238, served June 26, 1981, and incorporated by reference herein, a public hearing on this application was held on August 6, 1981. Del-Mar appeared in opposition to the application.

Although these proceedings were not consolidated for hearing, the records were consolidated by stipulation at the hearing in Case No. AP-81-16 and a joint briefing schedule was established. One decision with respect to both applications will be issued because they are interrelated and a determination in one has an effect on the other.

Del-Mar does not hold any authority from the Commission. Airport Limo is authorized to transport passengers in charter operations between Washington National and Dulles International Airports, on the one hand, and, on the other, points in the Metropolitan District, and to provide special-operations service between the airports, on the one hand, and, on the other, the Capital Hilton, the Washington Hilton and the Sheraton Washington Hotels, all located in the District of Columbia, and points in those parts of Maryland and Virginia located in the Metropolitan District. In addition, Airport Limo holds special-operations authority to provide transportation for guests and employees of the Springfield Hilton Hotel, Springfield, Va., between that hotel and the Capital Hilton Hotel, Washington, D. C., and is authorized to operate pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1 ^{1/} generally between Andrews Air Force Base, National and Dulles Airports and between the airports and hotels in the District of Columbia transporting airline aircraft crews under contract with seven airlines.

MOTION TO DISMISS

On September 15, 1981, Airport Limo filed a motion to dismiss Case No. AP-81-13 for the reason that Del-Mar is not duly constituted as a business entity in the District of Columbia. In support of this motion, a certificate from the D. C. Office of Recorder of Deeds was submitted indicating that Del-Mar does not appear among the partnership records of that office. The filing of a certificate of limited partnership is required by the D. C. Code (1973 Ed.) §41-402(b).

On September 18, 1981, Del-Mar filed a opposition to this motion and on September 24, 1981, it filed a supplemental opposition. It is sufficient for our purposes to state that on that latter date the Office of Recorder of Deeds certified that the required certificate of limited partnership had been duly filed. Accordingly, the motion to dismiss shall be denied.

CASE NO. AP-81-13

Three witnesses testified in support of Del-Mar's application: the partnership's president, its manager, and a legislative assistant for a member of the United States House of Representatives. Applicant's

^{1/} See Commission Regulation No. 70, adopted by Order No. 2004, served June 20, 1979.

president stated that Del-Mar is a travel agency located in the Capitol Hill area a few blocks south of the House of Representatives' office buildings. The agency makes travel arrangements for perhaps 30-40 percent of the Congressional offices, according to the witness, as well as for clients located in and near the building in which Del-Mar maintains offices. The witness stated that the greatest demand for airport transportation is Monday through Friday during business hours. He asserted that many of Del-Mar's clients request service to the airport as part of their overall travel arrangements.

The proposed scheduled service would originate at Del-Mar's office once each hour between 9:00 a.m. and 5:00 p.m., Monday through Friday, stop off at South Capitol and C Streets, S. E., and proceed to National Airport with no service originating at the airport in the reverse direction. ^{2/} A 12-passenger van would be used, and the charge for this service would be \$5 per person. The service would be open to the general public as well as to Del-Mar's travel-agency clients. The witness estimated revenue of \$59,400 on an annual basis, calculated by averaging five passengers per trip, nine trips per day and 22 business days each month. Variable expense items such as fuel, insurance and maintenance were estimated to total \$36,777, but an allocation of fixed expenses such as rent and administration between the transportation service and the travel agency was not included.

The manager of the travel agency testified that she oversees the selling of travel, airline tickets and commercial accounts and comes in contact with travel-agency clients and others requesting airline information. She stated that clients and others have expressed an interest in a regular van service to National Airport, but that she did not make a specific study of the number or frequency of travel requests to the airport.

The legislative assistant for a Member of Congress has been working on Capitol Hill since January 1981, and she related her observations about transportation to National Airport including taxicab and Metrorail service. She also mentioned the need of congressional staffers and citizens from the congressman's home district for frequent transportation to the airport, and expressed the belief that they would use applicant's van service if it were available.

The FAA, appearing in opposition to the application, sponsored the chief of the business operations division for the Metropolitan

^{2/} The witness stated that there was little or no perceived demand for return service.

Washington Airports as a witness. A function of the business operations division is to negotiate contracts for services at the local airports, including ground transportation. Ground transportation is viewed as an essential adjunct to airlines operations, according to the witness, and the FAA's policy is to promote the development of a single, strong, coordinated ground service. Such service is required by contract with Airport Limo during both peak and off-peak hours to meet the demands of all passengers, seven days a week, including holidays, between 6:45 a.m. and 12:45 a.m., to specified locations in both Washington, D. C. and various suburban locations. In addition, there are requirements as to the type of equipment to be used and a minimum number of daily trips. The FAA believes that a carrier serving the airport should serve all passengers and must provide service at unprofitable times as well as during peak periods. The FAA is opposed to Del-Mar's application because of the potential weakening effect on the overall economics of the basic contract service provided by Airport Limo. The witness also stated that there is no FAA regulation requiring approval to drop off passengers at the airport although permission is needed to originate service (other than pre-scheduled pickups) at the airport. He further stated that there was no limousine service originating from the Capitol Hill area under the FAA -- Airport Limo contract.

The general manager of Airport Limo testified in opposition to the application. He described the scope of Airport Limo's service (as outlined above in the description of the carrier's WMATC authority) and explained that Airport Limo commenced operations in April 1980 ^{3/} when Greyhound Airport Service, Inc., ceased providing service. Although Greyhound held authority to serve all points in the District of Columbia, Airport Limo amended its original application for District-wide authority to the three hotels previously served by Greyhound because of the number of protests filed and the need to begin operations. The witness introduced evidence indicating the amount and type of equipment and number of drivers needed to meet the terms of its contract with the FAA. According to him, the Washington, D. C., service is not profitable by itself but overall company operations do enable Airport Limo to realize a profit. He further stated that a grant of authority to Del-Mar would fragment the market place and take away potential passengers from Airport Limo, and could have an adverse effect on protestant's long-term viability.

^{3/} Airport Limo originally operated pursuant to a grant of temporary authority. Subsequently a certificate of public convenience and necessity was issued.

CASE NO. AP-81-16

In Case No. AP-81-16, Airport Limo seeks authority to transport passengers between National Airport, on the one hand, and, on the other, four hotels in the District of Columbia and the United States Capitol. Five witnesses appeared on behalf of Airport Limo's application including personnel from two hotels, a representative of the FAA and two company employees. Airport Limo's assistant manager described the proposed routes, adding a stop at the Mayflower Hotel to current service to the Washington Hilton and the Capital Hilton, and new routes to the Shoreham Hotel and to Capitol Hill embracing stops at the United States Capitol and the Hyatt Regency and Quality Inn Hotels. The Capitol stop would include stops at a specified driveway of the Rayburn Building ^{4/} and at the Capitol itself. The witness stated that he has received numerous requests for service from National Airport to points on Capitol Hill and the Shoreham and Mayflower Hotels. Testimony with respect to Airport Limo's operations was similar to that recited previously by the general manager as described above in Case No. AP-81-13. Fares between the airport and Capitol Hill as well as the Mayflower would be \$3.25 while service to the Shoreham would be \$3.75.

Airport Limo's controller explained the basis for projected revenue and expenses for a one-year period, stating that revenue was based on an average of one passenger for each stop per trip and that expenses included variable expenses for the proposed service such as driver wages and fuel costs as well as allocated fixed expenses including overhead, rent and administration. The witness opined that a grant of the authority sought would increase the company's profitability.

A representative of the Shoreham Hotel testified that guests of that hotel generally travel to and from National Airport by taxicab or limousine service located at a neighboring hotel. The Shoreham seeks service by limousine directly to its hotel for the convenience of its guests. The witness estimated that perhaps 30-40 persons each day would use the service, and that the availability of direct service would help attract convention and vacation groups to the Shoreham.

The president of the Quality Inn-Capitol Hill Hotel stated that existing service is primarily performed by taxicabs, but that limousine service scheduled seven days a week, morning through night, would be better suited for its guests. He estimated that perhaps 25-30 guests a

^{4/} The issue of whether this situs is properly included within the application description "the United States Capitol" is discussed below.

day would use the service, as well as neighborhood residents, and that service availability would aid in attracting conventions and vacation tours to the hotel.

The same FAA representative who testified in Case No. AP-81-13 stated that traffic studies made a few years ago indicate that Northwest Washington, D. C. and the Union Station area (including the Capitol and the Quality Inn and Hyatt Regency Hotels) require a heavy amount of transportation to and from National Airport. The witness reiterated the FAA's policy of consolidating airport ground transportation in a single coordinated operation, and reiterated the FAA's support for Airport Limo's application in preference to Del-Mar's application.

No witnesses from the Mayflower or Hyatt Regency Hotels appeared. In addition, no one working at or for the U. S. Capitol testified at the hearing.

The president of Del-Mar testified in opposition to Airport Limo's application to the extent authority is sought from the U. S. Capitol. He took exception to the service proposed at the Rayburn Building, which is located south of the U. S. Capitol in proximity to Del-Mar's proposed stop at South Capitol and C Streets, S. E., because Airport Limo's application recited service to the U. S. Capitol specifically, but not the Rayburn Building.

DISCUSSION AND CONCLUSIONS

The applications in Case Nos. AP-81-13 and AP-81-16 and the protests and evidence of record may be logically divided into two separate areas for consideration. First, Airport Limo's application, to the extent it seeks authority between National Airport and the four hotels, is unopposed. Del-Mar is not applying to provide service in the areas of the Shoreham and Mayflower Hotels and specifically stated that operations at the Quality Inn and Hyatt Regency Hotels, though located near the U. S. Capitol, would not be competitive with Del-Mar's proposed operation. Second, the services proposed by Airport Limo and by Del-Mar in the vicinity of the U. S. Capitol are directly competitive. Each application, of course, is opposed to this extent by the other applicant.

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."

With respect to the unopposed portion of Case No. AP-81-16, the Commission finds that Airport Limo has sustained its burden of proof regarding the need for service between National Airport and the Shoreham and Quality Inn Hotels. The evidence of record indicates that the travelling public would be afforded convenient, economical service and the hotels would benefit by having scheduled transportation for vacation and convention groups.

Airport Limo's witnesses generally indicated that there was insufficient scheduled service currently available. The record, however, presents no basis for granting authority to serve the Mayflower and Hyatt Regency Hotels. No witness appeared from either hotel in support of the application and Airport Limo failed to establish any definite need for transportation from or to these points. In addition, we note that these hotels are reasonably proximate to the Capitol Hilton and the Quality Inn, respectively, and these points do (or will) receive scheduled service from Airport Limo.

With respect to the opposed portions of each application, the Commission finds that Del-Mar has sustained its burden of proof within the mandate of Title II, Article XII, Section 4(b) of the Compact, to originate airport service at 499 South Capitol Street, S. W., and at South Capitol and C Streets S. E. Airport Limo, on the other hand, has failed to establish a need for service from or to the U. S. Capitol or the Rayburn Building.

Del-Mar has shown a need for service from the area it seeks to serve and the lack of regularly available existing service. While the Commission notes that taxicabs do operate in this area, the addition of a scheduled service will enable clients of the travel agency as well as the general public to coordinate ground transportation with flight schedules. The grant of authority to Del-Mar will be limited to the performance of transportation in vans in conformance with the evidence of record. As for Del-Mar's tariff, the Commission will tentatively approve the requested rate of \$5 per passenger because projections enumerated by the carrier did not include allocations of rent or administrative or advertising expenses, among others, or the lease expense or depreciation of a vehicle. The Commission will require the carrier to file income statements including allocation of all expenses (with explanation of the bases of allocations) for the service periods ending March 31 and June 30, 1982, to monitor the actual rate of return for the service. Our jurisdiction over this issue is expressly retained.

Airport Limo did not present any witnesses knowledgeable about service needs from or to the U. S. Capitol and failed to establish that a need for service at this point exists. No evidence was adduced regarding the Rayburn Building and, in fact, that point was not properly sought in its application. The description "United States Capitol" does not include the Rayburn Building and is insufficient to notify the public or put potential protesting carriers on notice that that point is being sought as an origin or destination. The fact that Airport Limo originally sought service to all points in the District of Columbia and subsequently restricted its application in Case No. AP-80-16 is irrelevant to this proceeding and the issue of need for service.

The Commission has carefully weighed the evidence presented by the FAA in these proceedings and notes the FAA's preference for a single, coordinated service at the local airports. The grant of authority to Del-Mar herein is limited to service to National Airport with no return transportation, and does not conflict with FAA requirements. Airport Limo's new service at the Quality Inn and Shoreham Hotels will be a round-trip operation and, of course, that carrier already has a contract with the FAA. It is for the Commission to decide the issue of public convenience and necessity based on the record developed at public hearings. We can perceive little, if any, harm either to the FAA's proprietary mission at National Airport or to Airport Limo's economic viability from the limited grant of authority made to Del-Mar herein.

The record in these proceedings establishes that both Del-Mar and Airport Limo are fit, financially and otherwise, to conduct the services authorized herein.

THEREFORE, IT IS ORDERED:

1. That the above-referenced motion to dismiss filed by Airport Limo, Inc., is hereby denied.

2. That Del-Mar Travel Agency is hereby granted authority in Case No. AP-81-13 to transport passengers together with their baggage in the same vehicle, in special operations, from 499 South Capitol Street, S. W., Washington, D. C., and South Capitol and C Streets, S. E., Washington, D. C., to Washington National Airport, restricted to the performance of such operations in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver.

3. That Del-Mar Travel Agency is hereby directed to file with the Commission (a) a certificate of insurance as required by Commission Regulation No. 62, (b) an affidavit of compliance with Commission

Regulation No. 68 governing identification of motor vehicles, (c) a check in the amount of \$21.80 to cover that part of its hearing transcript cost in excess of the assessment previously paid and (d) two copies of its WMATC Tariff No. 1 as required by Commission Regulation No. 55, such tariff to be effective upon acceptance by the Executive Director, all no later than 30 days from the date of service of this Order.

4. That upon timely compliance by Del-Mar Travel Agency with the directives set forth in paragraph 3 above, an appropriate Certificate of Public Convenience and Necessity No. 73 will be issued.

5. That Del-Mar Travel Agency is directed to maintain separate books and records for its transportation operations as authorized herein and is further directed to file an original and four copies of its income and expense statements for the service periods ending March 31 and June 30, 1982, prepared as described above, no later than 30 days after the date on which such periods end.

6. That Airport Limo, Inc., is hereby granted authority in Case No. AP-81-16 to transport passengers and their baggage, in the same vehicle with passengers, in special operations, between Washington National Airport, on the one hand, and, on the other, the Quality Inn-Capitol Hill, 415 New Jersey Avenue, N. W., and the Shoreham Hotel, 2500 Calvert Street, N. W., both in the District of Columbia.

7. That the application of Airport Limo, Inc., in Case No. AP-81-16, except to the extent granted in paragraph 5 above, is hereby denied.

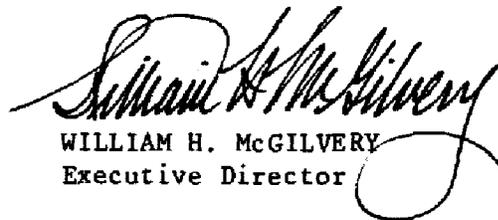
8. That Airport Limo, Inc., is hereby directed to file two copies of an appropriate WMATC tariff supplement in accordance with the authority granted herein, such tariff supplement to be effective upon acceptance by the Executive Director, within 30 days from the date of service of this Order.

9. That upon timely compliance with the directives set forth in paragraph 8 above, an appropriately revised Certificate of Public Convenience and Necessity No. 26 will be reissued to Airport Limo, Inc.

10. That in the event either Del-Mar Travel Agency or Airport Limo, Inc., fails to comply with the directives set forth above within 30 days, or such further time as may be authorized by the Commission, the grant of authority to the non-complying carrier made herein will be considered void and the application of the non-complying applicant will

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

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


WILLIAM H. MCGILVERY
Executive Director