

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2304

IN THE MATTER OF:

Served January 6, 1982

Application of DAWSON'S CHARTER)
SERVICE, INC., to Transfer)
Certificate No. 9 to BELTWAY)
LIMOUSINE SERVICE, INC., and for)
Approval of Temporary Control)

Case No. AP-81-21

DAWSON'S CHARTER SERVICE, INC. --)
Investigation to Determine the)
Status of Certificated Operations)

Case No. MP-81-10

By application filed August 25, 1981, in Case No. AP-81-21 as supplemented on September 4, 1981, Dawson's Charter Service, Inc. (Dawson's), seeks approval pursuant to Title II, Article XII, Section 12(b) of the Compact to transfer by sale Part A of its Certificate of Public Convenience and Necessity No. 9 to Beltway Limousine Service, Inc. (Beltway), which holds WMATC Certificate No. 25.

In support of the application the parties have submitted an executed bilateral contract of sale at a cash price of \$6,000, financial statements of the transferee and a projected operating statement. Pursuant to Order No. 2256, served September 28, 1981, and incorporated by reference herein, a public hearing on the matter was scheduled for October 27, 1981. Evidence was submitted indicating the appropriate newspaper publication and vehicle posting of notice of the application. No protest to the application was filed, and by motion filed pursuant to Commission Rule 22-01, the parties requested that the Commission waive the public hearing and proceed on the evidence of record. By Order No. 2265, served October 26, 1981, the public hearing was cancelled and the motion referred to us for determination. The motion will be granted.

The evidence of record indicates that Dawson's ceased operations on August 1, 1981, because of the poor health of the carrier's president, and that Beltway sought and received temporary approval to operate Part A of Certificate No. 9 issued to Dawson's.

Beltway is operating five twenty-one-passenger vehicles and has purchased three motor coaches to provide service as authorized by Certificate No. 9. ^{1/} The service performed by Dawson's prior to the cessation of operations included at least 81 charter trips in the first six months of 1981.

To approve the purchase the Commission must find that the proposed transaction is consistent with the public interest pursuant to Title II, Article XII, Section 12(b) of the Compact. In determining whether this transfer is consistent with the public interest, the Commission considers, among other factors, the fitness of the carrier seeking to obtain the certificate, the fairness of the purchase price, the resulting competitive balance of the industry, whether the operating rights sought to be purchased are dormant and whether the riding public would be benefited by a transfer of Part A of Certificate No. 9.

The Commission finds that the proposed transfer is consistent with the public interest. The operating rights to be sold have not been dormant inasmuch as Dawson's provided continuous service during the first six months of 1981 and Beltway, thereafter, received temporary approval to operate the relevant portion of the certificate. Furthermore, because Dawson's has manifested an unwillingness to continue to render adequate service, a transfer of Certificate No. 9, Part A to Beltway would certainly be of substantial benefit to the public. Beltway operates suitable equipment and is fit to provide the involved service. The purchase price appears reasonable, especially when viewed with the resultant continued public service. There is no discernible change in the competitive balance at the present time, with one carrier taking the place of another previously active in the field. Additionally, no carrier engaged in local transportation has protested the proposed transaction.

In Case No. MP-81-10 the Commission instituted an investigation to determine the status of the operations being performed by Dawson's. As previously stated, Dawson's ceased operations on August 1, 1981, because of the poor health of the carrier's president. Part A of Dawson's certificate became the object of the transfer application,

^{1/} Beltway's Certificate No. 25 now authorizes service only in vehicles designed to seat 15 passengers or less.

supra. The service authorized by Part B of the certificate, a regular-route operation between Washington, D. C., and Montgomery Village, located in Montgomery County, Md., was the subject of an application for temporary authority filed by U. S. Bus Lines, Inc. The application (although identical in substance to the authority contained in Part B of Certificate No. 9) did not seek transfer of Dawson's authority, but rather sought independent operating rights. The application for temporary authority was granted, ^{2/} and the regular-route service was continued without any disruption to the passengers. ^{3/}

Dawson's states that it has ceased providing any service between Montgomery County and Washington, D. C., as authorized in Part B of its certificate and has no intention of reinstating the service, and consents to the revocation of the regular-route authority.

The Commission notes that Dawson's certificate (like that of all other carriers) requires the holder thereof to render reasonable, continuous and adequate service to the public, as does Title II, Article XII, Section 3 of the Compact. Additionally, Title II, Article XII, Section 4(i) of the Compact provides that

[n]o carrier shall abandon any route specified in a certificate issued to such carrier under this section, unless such carrier is authorized to do so by an order issued by the Commission.

It is clear that Dawson's has violated the above-cited statutes and the requirements of its certificate. Pursuant to Title II, Article XII, Section 4(g) of the Compact, the Commission will revoke Part B of Certificate No. 9.

It is important to note, however, that, had this record contained any evidence of actual damage to regular-route patrons as a result of Dawson's unauthorized service abandonment, this Commission may well have ordered that payment for Part A of Dawson's certificate

^{2/} See Order No. 2246, served July 31, 1981.

^{3/} Subsequently, another carrier, Eyre's Bus Service, Inc., instituted a regular-route operation originating outside the Metropolitan District but including Montgomery Village, pursuant to authority issued by the Interstate Commerce Commission. U. S. Bus sought and received WMATC approval to cease operating. See Order No. 2268, served October 30, 1981.

be escrowed into a compensatory rider's fund. That such action is not directed herein should not be construed as approval of Dawson's wrongful abandonment; more properly viewed, the lack of need for any remedial action is an acknowledgement of the prompt and efficient interim efforts of U. S. Bus Lines, Inc. In another situation, however, the Commission specifically reserves full jurisdiction to assure, insofar as may be possible, that an unauthorized abandonment of service does not redound to the detriment of the riding public.

THEREFORE, IT IS ORDERED:

1. That the pending motions to waive public hearing and proceed on the evidence of record are hereby granted.
2. That the transfer of Certificate of Public Convenience and Necessity No. 9, Part A, from Dawson's Charter Service, Inc. to Beltway Limousine Service, Inc., is hereby approved.
3. That Beltway Limousine Service, Inc., is hereby directed to file with the Commission within 30 days from the date of service hereof two copies of its WMATC Tariff No. 25 cancelling Tariff No. 17 as required by Commission Regulation No. 55.
4. That Certificate of Public Convenience and Necessity No. 25 of Beltway Limousine Service, Inc., will be reissued upon acceptance of the required tariff by the Commission and written notice that the transfer transaction has been consummated.
5. That unless said tariff and notice of consummation is received within 30 days from the date of service hereof, or such additional time as may be authorized by the Commission, the grant of approval herein will stand denied in its entirety effective upon the expiration of the said compliance time.
6. That Certificate of Public Convenience and Necessity No. 9 Part B is hereby revoked.

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


WILLIAM H. MCGILVERY
Executive Director