

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2328

IN THE MATTER OF:

Served April 8, 1982

Application of JAPAN TRAVELERS)
SERVICE, INC., for a Certificate)
of Public Convenience and Necessity)
to Engage in Charter Operations)

Case No. AP-81-26

By application filed November 9, 1981, as amended pursuant to Order No. 2307, served January 26, 1982, Japan Travelers Service, Inc. (JTS), seeks a certificate of public convenience and necessity to transport passengers and their baggage, in charter operations, between points in the Metropolitan District, restricted to service provided in vehicles with a seating capacity of between 16 and 21 passengers including the driver. Public hearings on this application were held on January 6 and 29, 1982. Airport Limo, Inc., Executive Limousine Service, Inc., and Gold Line, Inc., all of which had filed protests, withdrew their opposition to the application after the restrictive amendment was approved.

The president of JTS started the firm as a sole proprietorship in 1972 and, even though the business has been incorporated, he still does the bookkeeping. The president cosponsored, with applicant's accountant, certain financial exhibits, and, except where necessary for clarity of discussion, we shall summarize the financial testimony without specific attribution.

As of September 30, 1981, JTS had assets of \$200,403 and liabilities of \$103,754. Its current ratio (current assets in proportion to current liabilities) is approximately 14 to one, which is unusually good when compared to the passenger carrier industry. For the five months ended September 30, 1981, JTS earned \$343,952 with corresponding expenses of \$295,050. There is little doubt that applicant is financially able both to purchase a second minibus ^{1/} and to cover any excess operating expenses which may be engendered by a grant of the authority sought herein.

The projected revenue and revenue deductions statement for the proposed operation is of no prognostic value and was properly excluded

^{1/} JTS now owns one minibus and a 14-passenger van. The van, however, would not be used in for-hire passenger operations.

from the evidence in this case. The projections were done initially for the entire company and assumed a grant of the application as originally filed (including the use of both vans and a motor coach). Applicant's Exhibit 8, estimating revenue and some expenses for minibus operations is also of little value. Accepting, arguendo, applicant's assumption on vehicle usage and other matters, 2/ the following table yields the best available approximation of operations for a future year.

PROJECTED OPERATING RESULTS

Transportation Revenue (163 trips of 6 hrs. each)	\$39,120
Guide Revenue (all trips at \$20/hr.)	<u>19,560</u>
Total	<u>\$58,680</u>
Depreciation (2 vehicles)	\$10,000
Gas, Oil & Repair	10,417 <u>3/</u>
Insurance	6,000 <u>4/</u>
Licenses	600 <u>4/</u>
Maintenance	2,451 <u>3/</u>
Salaries	22,060 <u>3/</u>
Guides	<u>9,780</u> <u>5/</u>
Total (excluding allocable fixed expenses)	<u>\$61,308</u>

As noted, applicant proposes to utilize two minibuses, one of which it now owns and one of which it proposes to purchase. The

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- 2/ It should be noted that no market analysis or other empirical tests underlie the revenue projections. The accountant for JTS accepted the company's estimates and made no independent verification thereof.
- 3/ Calculated by multiplying the projection on Exhibit 8 by the factor 163/133 as stipulated by counsel at the hearing.
- 4/ Double the projected amount for one vehicle.
- 5/ Calculated by using \$10 an hour average. Seven dollars to \$13 an hour was said to be the price range for guides.

vehicles will receive maintenance on a regular schedule, but it appears that no formal safety program for JTS' personnel has been fully developed.

Applicant's customers are pre-formed charter groups, most of which originate in Japan and require the service of a bilingual guide. 6/ Travel agencies or brokers organize the trips and JTS handles those details pertinent to the Washington, D. C., area. In addition to arranging (or providing) ground transportation, JTS might arrange for meals and other accommodations. Typically, these charter groups have been transported in the past by Gold Line, Inc., with JTS arranging the transportation and providing the bilingual guide. 7/ Thirty minibus trips were operated by JTS in the summer of 1981, but that service was discontinued when our staff advised that a certificate was necessary therefor.

Applicant plans to use the minibuses for two main purposes. An increase in the number of small (15 to 19 passengers) groups is anticipated this year and JTS feels that its service to these groups would be better and more profitable if a JTS minibus were used instead of a Gold Line motor coach. Also, the minibuses could be used as backup equipment on those occasions when seasonal demands make motor coach equipment more difficult to obtain.

Mr. Fred Boynton operates a limousine rental business and, on occasion, subcontracts with JTS. Based on these contacts and the general business reputation of JTS, Mr. Boynton opined that JTS is fit to perform the proposed service.

The managing director of Nippon Transportation Service testified that Nippon's business is similar to that of JTS. Nippon charters motor vehicle equipment for its travel groups and would charter minibuses from JTS when convenient. Since 1976, however, Nippon has not needed a 20-passenger minibus. Nippon has always experienced good service from JTS whenever the two companies have collaborated.

The office manager of JTS testified that approximately 500 groups were serviced by applicant in 1981. The range of transportation

6/ The application, however, is not restricted to Japanese or Japanese-speaking groups.

7/ Gold Line stipulated that JTS is one of its largest and most valued customers.

services (again, usually operated by Gold Line) includes sightseeing and pleasure tours and transfers to and from hotels, airports and business meeting sites.

Guide Service of Washington, Inc., provides licensed tour guides and has done business with JTS since 1977. Occasionally, JTS calls on Guide Service for non-Japanese speaking guides while in other situations Guide Service may utilize a Japanese speaking guide who works for JTS. The guides provided by JTS have been competent and Guide Service has had no cause to complain about JTS.

The general manager of Hokubei Tours of New York, N. Y., testified that Hokubei arranges accommodations, transportation, and guide service for foreign tour groups and businessmen. In 1981, Hokubei and a related travel agency referred between 100 and 130 groups to JTS for service in the Metropolitan District. Sixty percent or more of these groups could be transported in a minibus. Certification of JTS would add to the business flexibility of Hokubei. This witness stated that JTS has a reputation for being very reliable ". . . although the price is not so low." Applicant's rates, according to this witness are high but not unacceptable.

The president of Japan Express Travel, Inc., stated that the firm functions as a travel agent and consultant. Approximately twice a year Japan Express uses JTS to arrange tours organized by Japan Express. Generally these tours involve small groups who could be transported on a minibus.

Title II, Article XII, Section 4(b) of the Compact authorizes the Commission to grant a certificate of public convenience and necessity, subject to such restrictions as may be appropriate, where it finds (a) that the applicant is fit, willing and able properly to provide the proposed service and to abide by the provisions of the Compact and the rules, regulations and orders of the Commission thereunder, and (b) that the public convenience and necessity require the proposed service.

The evidence shows that there is some need for transportation of Japanese speaking groups in minibuses between points in the Metropolitan District. Such evidence as there is, however, is scanty and falls far short of the quantum required for a grant of general charter authority. Moreover, we have serious reservations, which are discussed at greater length below, about applicant's pricing structure and the value of its service. Under these circumstances, we find that the public convenience and necessity require only charter operations, over irregular routes, transporting passengers and their baggage between points in the Metropolitan District, restricted (a) to

transportation in vehicles with a manufacturer's designed seating capacity for 16 to 21 passengers (including the driver), (b) against transportation between points solely in Virginia, and (c) to transportation performed for bona fide travel agencies or tour brokers. 8/. This grant of authority is consistent with the evidence of record and applicant's existing practices and avoids the discrimination and enforcement problems inherent in tailoring a certificate to a group defined by national origin or language affinity.

Financially, we find that JTS has sufficient resources to support this venture. We are concerned, however, that the anticipated volume of business (using applicant's own projections) is insufficient to cover the variable operating expenses involved. The rates proposed for minibus service (\$120 or \$165 for a transfer or \$40 an hour subject to a three-hour minimum and excluding a guide) are extremely high by comparison to the existing industry. Because, as we indicated, the revenue from other aspects of JTS's business is sufficient to cover the shortfall estimated in the table on page two above, we shall not deny the application. It shall be incumbent upon JTS, however, aggressively to market its transportation service inasmuch as a request to this Commission for higher rates in the near future may lead to the conclusion that the service is not viable.

In this connection we shall also disapprove Item III of the proposed tariff to the extent that an additional guide charge is inherently required. JTS intends to cater almost exclusively to Japanese speaking persons. Hiring one person to drive the vehicle and a second, bilingual person to serve as a tour guide is an unnecessary expense which we believe the public should not be expected to underwrite. Other carriers subject to our jurisdiction are able to use bilingual driver-guides and we see no reason why JTS's personnel cannot perform both functions. Only in those cases where a charter group requires a separate guide for some unusual reason (e.g., an architect or other person with some specialized expertise transcending that of a regular licensed tour guide) may the additional actual cost thereof be passed on to the charteror. Accordingly, a new tariff must be prepared and filed to correct this problem and the technical problems noted by staff counsel. In addition all references to vehicles other than 16- to 21-passenger minibuses must be deleted from the new tariff.

8/ A "bona fide" travel agency is a person authorized to sell airline tickets by the Air Traffic Conference or International Air Transport Association, and a "bona fide" tour broker is a person holding a broker's license issued by the Interstate Commerce Commission.

Finally, we find that applicant must develop a formal safety program to warrant a finding of operational fitness. The program should be reduced to writing and comply with the provisions of our safety regulations as promulgated in General Order No. 8, and the appropriate provisions of the safety regulations published by the United States Department of Transportation in Title 49 of the Code of Federal Regulations. Of particular concern to us are the details regarding the hiring and training of qualified drivers. 9/

THEREFORE, IT IS ORDERED:

1. That except to the extent granted herein, the above-referenced application of Japan Travelers Service, Inc., is hereby denied.

2. That Japan Travelers Service, Inc., is hereby directed to file with the Executive Director of the Commission the following documents:

- a) two copies of a revised WMATC Tariff No. 1 to be effective upon its acceptance by the Executive Director;
- b) a certificate of insurance in conformity with Commission Regulation No. 62, as amended;
- c) an affidavit that the vehicles to be operated have been properly identified in conformance with Commission Regulation No. 68, for which purpose WMATC No. 74 is hereby assigned; and
- d) six copies of the above-referenced written safety program.

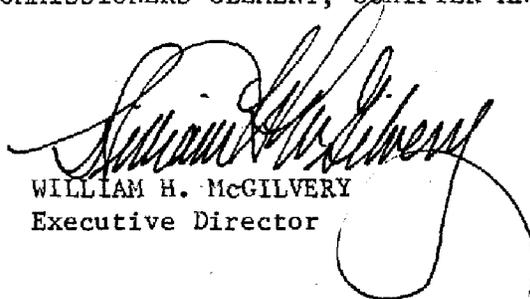
3. That unless compliance with the provisions of the preceding paragraph is effected within 30 days from the date of service hereof or such additional time as the Commission may authorize, the grant of authority made herein shall be void and the application shall stand denied in its entirety.

4. That upon timely compliance with the provisions of the second preceding paragraph, an appropriate Certificate of Public Convenience and Necessity No. 74 shall be issued.

9/ Naturally, any driver who would give lectured sightseeing tours must also obtain the license therefor required by the District of Columbia.

5. That Japan Travelers Service, Inc., is further directed to establish and maintain separate books and records for its regulated carrier activities including therein such allocable fixed expenses of the company as may be appropriate.

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



WILLIAM H. MCGILVERY
Executive Director