

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2414

IN THE MATTER OF:

Served May 5, 1983

Application of NATION'S CAPITAL ) Case No. AP-83-11  
SIGHTSEEING TOURS for Temporary )  
Authority -- Sightseeing )

On April 21, 1983, Nation's Capital Sightseeing Tours, a general partnership, filed Case No. AP-83-11 seeking temporary authority to transport passengers, in special operations limited to sightseeing tours, between points of interest within the Metropolitan District.

Exhibits A and B submitted with the application indicate that the points served by Nation's Capital are Ford's Theatre, the White House, Bureau of Engraving and Printing, the U. S. Capitol, Supreme Court, Library of Congress, Smithsonian Institution, the Lincoln and Jefferson Memorials, Arlington National Cemetery and the Viet Nam Memorial. According to its tariff, the first seven points are stops for interior tours on Tour A. Tour B includes all 11 points of interest.

Applicant proposes the following fare structure:

	<u>Adults 1/</u>	<u>Children 5-11</u>	<u>Children under 5</u>
TOUR A	\$12.50	\$6.25	Free
TOUR B	17.50	8.75	Free

Two vans will be used in the partnership's operations. The partners have been providing similar service as sole proprietors since as far back as 1965, presumably in the belief that no authority from this Commission was required therefor. Upon being advised formally by the staff that the above-described operations are subject to our jurisdiction, the partnership was formed, illegal operations were discontinued and appropriate applications filed. Applicant urges, and we agree, that the following statement regarding compliance fitness should be applied in this case.

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1/ "Senior citizens" in groups of four or more receive a 10% discount. The term "senior citizen," however, requires more specific definition.

Evaluation of an applicant's fitness should not be a punitive measure directed at past unlawful operations. Rather, it is a determination by the Commission of the applicant's willingness and ability to conduct any future operation. 2/

In light of the fact that Nation's Capital acted promptly to comply with the requirements of the Compact when advised so to do, we find no reason (in this case) to find compliance unfitness.

Applicant states that many visitors to Washington, D. C., desire tours conducted in a small, informal and relatively unstructured atmosphere. Inasmuch as applicant's operations -- generally picking up its passengers at tour stops, particularly the Mall area -- do not run on a fixed schedule, it is asserted that tourists are offered a more flexible service than is available from existing certificated carriers. It is further asserted that no persons will be harmed by a grant of this application because the de facto level of competition will not be increased.

Applicant has also submitted signed statements from 13 persons who responded to Nation's Capital's "ridership survey". Generally, the respondents were vacationing in Washington, D. C., with their families, became aware of applicant's service "by accident" (seeing the tour operator on the street), and decided on-the-spot to take a casual tour for such reasons as convenience, a limited amount of time or the personality of the guide. Respondents say that they would take "another tour like this one again," and are complimentary about the small tour sizes and "friendly and informative" guide service.

Webb Tours, Inc., filed a protest to the application. That carrier, however, conducts individually ticketed sightseeing operations on a more structured basis, picking up passengers by prearrangement with hotels in British-type double-deck buses. Webb states that it is ready, willing and able to conduct operations similar to those proposed herein, but we have no evidence that Webb has engaged in this type of business to date. Webb's current service is substantially different from that proposed by applicant. Moreover, Webb's protest in this case appears more directed toward our recent decision in Case No. AP-82-11 than to the issues in this proceeding. Inasmuch as Webb's application for reconsideration in Case No. AP-82-11 is now pending before us,

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2/ Roesch Lines, Inc., Extension of Charter Operations, 131 M.C.C. 722, 732 (1979).

the considerations raised by Webb will be the subject of an order to be issued in the near future.

Upon consideration of this record, we find that applicant has met its burden of proof for a grant of temporary authority as set forth at Title II, Article XII, Section 4(d)(3) of the Compact, to serve that segment of the traveling public desiring informal, flexible sightseeing tours of the nation's capital. We further find that the services of protestant are substantially different from those proposed by the applicant and that there is no existing carrier service capable of meeting the described need. Accordingly, the application shall be granted subject to the restrictions and conditions set forth below.

**THEREFORE, IT IS ORDERED:**

1. That temporary authority is hereby granted to applicant as follows:

Special operations, restricted to lectured, round-trip sightseeing tours, between Arlington National Cemetery, Va., and points in that part of the District of Columbia south of a line beginning at the junction of Constitution Avenue, N. W., and Rock Creek Parkway, N. W., thence along Constitution Avenue, N. W., to 17th Street, N. W., thence along 17th Street, N. W. to Pennsylvania Avenue, N. W., thence along Pennsylvania Avenue, N. W., to 10th Street, N. W., thence along 10th Street, N. W., to F Street, N. W., thence along F Street, N. W., to 9th Street, N. W., thence along 9th Street, N. W., to Pennsylvania Avenue, N. W., thence along Pennsylvania Avenue, N. W., to Constitution Avenue, N. W., thence along Constitution Avenue to its junction with 2nd Street, N. E.

**RESTRICTED** to the transportation of passengers in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver); and

**FURTHER RESTRICTED** against the solicitation of passengers on any public space south of a line beginning at the junction of the east side of East Executive Avenue and the center line of Pennsylvania Avenue, N. W., thence along

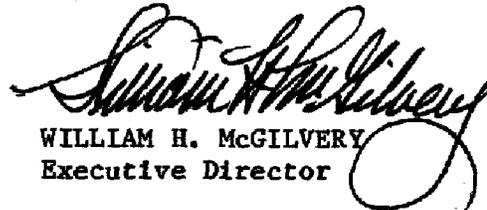
Pennsylvania Avenue, N. W., and a line extending along the northern boundary of the White House and the Executive Office Building to the west side of 17th Street, N. W. 3/

2. That the temporary authority granted herein shall be effective on the date of service of this Order or the date on which applicant files an acceptable certificate of insurance naming applicant and the individual partners as insureds, whichever is later, and shall continue in effect for 180 days unless otherwise ordered by the Commission.

3. That applicant file with the Commission within 30 days from the date of service of this order acceptable proof that it has been approved to do business as a partnership in each of the signatory jurisdictions or proof that such approval is unnecessary.

4. And that, except to the extent granted herein, the application in Case No. AP-83-11 is hereby denied.

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

  
WILLIAM H. MCGILVERY  
Executive Director

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3/ D. C. Police Regulations (January 1983), Article II, §8(e)(7).