

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2464

IN THE MATTER OF:

Served September 8, 1983

Application of AIRLINE BAGGAGE &)
CREW TRANSFER, INC., for Special)
Authorization to Perform Charter)
Operations Pursuant to Contract --)
Pan American World Airways, Inc.)

Case No. CP-83-09

The above-captioned application and the evidence submitted therewith were summarized in Order No. 2453, served August 22, 1983, and that Order is incorporated by reference herein. Pertinent facts will be restated herein only to the extent necessary for clarity of discussion.

The proposed service -- transportation of Pan Am flight crews between Dulles International Airport, on the one hand, and, on the other, points in the District of Columbia -- has been performed since late in 1979 by Call-A-Messenger, Inc., pursuant to Order No. 2056, served October 31, 1979. CAM filed a protest to the application on September 6, 1983.

CAM states that its contract with Pan Am is still in effect, and CAM has received no notification from Pan Am that said contract was being terminated or modified. There is, however, no prohibition against Pan Am contracting with more than one carrier for ground transportation, and the availability of CAM's service to Pan Am would not preclude a grant of this application. See Order No. 2004, served June 20, 1979.

CAM also contends that ABCT, in several ways, is unfit to receive authority. First, CAM notes ABCT's reference to "contracted independent operators," and, of course, service rendered through such instrumentalities is severely circumscribed by the Commission. CAM also points out potentially serious defects with respect to applicant's equipment and insurance coverage. CAM also contends that two vehicles would be insufficient to meet Pan Am's service needs.

ABCT's projected revenue and expense statement is also questioned. Clearly, that statement does fail to include interest expense for the vehicles to be acquired and any allocation of fixed expenses such as garage and non-income taxes.

CAM also questions ABCT's operational fitness, in large measure because this appears to be applicant's first attempt to obtain authority for the transportation of passengers.

None of the defects pointed out by CAM is incurable. As was done in Case No. CP-79-04 (in which CAM was granted authority to serve Pan Am), we will allow applicant to supplement the record with respect to the issue of fitness.

Commission Regulation No. 70, which governs the processing of this application, provides that the application shall be granted if it is determined that the applicant is fit, willing and able properly to perform the proposed service and to conform to the provisions of the Compact and the rules, regulations and orders of the Commission thereunder and if it is determined that the proposed operation conforms to the provisions of Regulation No. 70. Inasmuch as the contract is for a three-year period, is between an employer and a carrier, and calls for the transportation of Pan Am's employees, the proposal conforms to Regulation No. 70. Generally, ABCT's evidence concerning its fitness also conforms to the requirements of Regulation No. 70. Accordingly, it is found that the applicant is fit, contingent upon timely filing of acceptable supplementary materials as specified below. Upon receipt of such materials, an appropriate authorization will be issued.

THEREFORE, IT IS ORDERED:

1. That this application is hereby granted contingent upon compliance with the directives herein set forth.

2. That applicant file an original and four copies of an affidavit describing the relevant transportation experience of its principals.

3. That applicant file an original and four copies of a revised revenue and expense statement which includes all revenue and expenses for the proposed service including interest and allocable expenses.

4. That applicant file two copies each of its registrations for the vehicles to be used for the proposed service, evidence that such vehicles have been inspected by the jurisdiction in which they are registered and a statement from Pan American World Airways, Inc., that the equipment actually acquired is suitable for the needs of the contracting employer, and a list of all equipment currently owned and/or operated by applicant showing the make, year, tag number, seating capacity and ownership of each vehicle.

5. That applicant file a certificate of insurance in conformance with Commission Regulation No. 62 which clearly itemizes the vehicles operated or which states that all vehicles operated by applicant are insured.

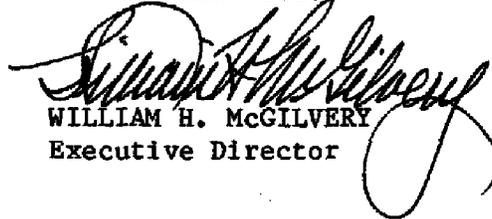
6. That applicant is hereby assigned WMATC Special No. 98 and is directed to comply with Commission Regulation No. 70-10 regarding identification of vehicles, and applicant is further directed to file an affidavit evidencing such compliance.

7. That all filings be made no later than 10 days from the date of service of this Order, or such additional time as may be authorized, and that applicant simultaneously serve one copy of each filing on counsel for protestant, John M. Ballenger, Esquire; Ballenger & Vogelman, 123 S. Royal Street, Alexandria, Va. 22314.

8. That failure timely to comply with the directives of this Order voids the conditional grant of authority made herein and the application shall stand denied it is entirety if satisfactory filings are not made at the expiration of the compliance time established in the next preceding paragraph.

9. That applicant is hereby cautioned that the use of "contracted independent operators" to render service subject to regulation by this Commission is prohibited, and applicant is further cautioned that any use of non-owned vehicles is governed by Commission Regulation No. 69.

FOR THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director