

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2504

IN THE MATTERS OF:

Served December 2, 1983

Application of V.I.P. TOURS for a)
Certificate of Public Convenience)
and Necessity to Conduct Special)
Operations -- Sightseeing Tours)
and School Children)

Case No. AP-83-10

Application of NATION'S CAPITAL)
SIGHTSEEING TOURS for a Certificate)
of Public Convenience and Necessity)
to Conduct Special Operations --)
Sightseeing Tours)

Case No. AP-83-12

Application of ARTHUR J. THOMAS)
T/A GOLDEN EAGLE SIGHTSEEING)
TOURS for a Certificate of Public)
Convenience and Necessity to)
Conduct Special Operations --)
Sightseeing Tours)

Case No. AP-83-17

Application of SAMUEL HOWELL T/A)
HOWELL SIGHTSEEING TOURS for a)
Certificate of Public Convenience)
and Necessity to Conduct Special)
Operations -- Sightseeing Tours)

Case No. AP-83-22

Application of LUCILLE R. MOORE)
T/A MOORE'S SIGHTSEEING SERVICE)
for a Certificate of Public)
Convenience and Necessity to)
Conduct Special Operations --)
Sightseeing)

Case No. AP-83-26

Application of SCENIC SIGHTSEEING)
TOURS, a Partnership, for a)
Certificate of Public Convenience)
and Necessity to Conduct Special)
Operations -- Sightseeing)

Case No. AP-83-28

By application filed November 4, 1983, each of the above-named applicants seeks reconsideration of Order No. 2483, served October 7,

1983, which denied reconsideration regarding the territorial scope of the authority granted each applicant, but modified each certificate by deleting specific restrictions against soliciting and providing for conformance with local police regulations.

The instant application for reconsideration again requests a broadening of the territorial authority granted and removal of restrictions relating to federal, state and District of Columbia rules, laws and regulations. With respect to the territorial scope of authority, Order No. 2483 explicitly rejected a broader geographical grant in conformance with the evidence of record in each application. The Commission decision regarding this matter was made final by action of Order No. 2483.

Regarding imposition of a restriction requiring compliance with local police regulations, applicants assert that this provision attempts to vest in the Commission regulatory authority not granted by the Compact, and that the restriction would put a greater burden on those carriers holding certificates containing the restrictive language than on those carriers holding WMATC authority without such restriction, resulting in disparate treatment from the Commission -- the carrier with the restrictive language being subject to potentially costly investigation, as well as suspension or revocation of its operating rights.

The Commission has the power to suspend, change or revoke certificates, in whole or in part, upon a finding of wilful failure to comply with any lawful order, rule or regulation of the Commission, or with any term, condition or limitation of a certificate. Title II, Article XII, Section 4(g) of the Compact.

Violations of federal, state or local laws, rules or regulations have a bearing on the fitness of a carrier certificated by this agency, and fitness is one of the criteria essential to maintaining a certificate of public convenience and necessity. Thus any carrier may be subject to an investigation regarding transportation-related violations of non-WMATC laws, rules or regulations. Compact, Title II, Article XII, Section 13 and WMATC Rule Nos. 9 and 12. However, the imposition of the complained of restriction, appearing in only certain certificates, could potentially result in proceedings concerning violations of specific certificate provisions by those carriers only, putting those carriers in a position to be treated differently from other carriers whose certificates do not contain similar restrictions.

The enforcement of federal, state and local laws, rules and regulations is better left to the agencies having primary jurisdiction thereof although this does not preclude commencement of a Commission fitness investigation where warranted.

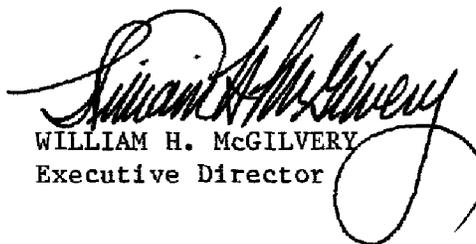
Accordingly, the restriction regarding compliance with non-WMATC rules and regulations will be removed.

THEREFORE, IT IS ORDERED:

1. That the grants of authority made in Order No. 2447, as modified in Order No. 2483, are hereby modified to the extent set forth herein, and, in all other respects, those orders remain in full force and effect.

2. That appropriate certificates of public convenience and necessity shall be issued.

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


WILLIAM H. MCGILVERY
Executive Director