

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2654

IN THE MATTER OF:

Served January 22, 1985

Application of YOUNG S. KIM trading)
as WASHINGTON U.S. TOURS for a)
Certificate of Public Convenience)
and Necessity -- Charter Operations)

Case No. AP-85-01

Application of YOUNG S. KIM trading)
as WASHINGTON U.S. TOURS for)
temporary authority -- Charter)
Operations)

Case No. AP-85-02

By application filed January 2, 1985, Young S. Kim, a sole proprietor located in Virginia and trading as Washington U.S. Tours ("Mr. Kim" or "applicant"), seeks both temporary authority and a certificate of public convenience and necessity to conduct operations described by applicant as follows:

To operate 15 or 24 passenger vans on a charter "for hire" basis, on an as-needed basis, as directed by the charteror to all points within the Washington DC Metropolitan area, including such operations as sightseeing, airport transfers, hotel and restaurant transfer, convention, business and social meetings, transportations, etc., for Korean-speaking people.

Both applications and a letter (discussed later in this Order) in support of the temporary authority application, allude to the carrier's apparent practice and intention of dealing exclusively with a Korean-speaking clientele. In a slightly different context, we have already expressed our concern over ". . . the discrimination and enforcement problems inherent in tailoring a certificate to a group defined by national origin or language affinity". See Order No. 2328, served April 8, 1982, Japan Travelers Service, Inc., Case No. AP-84-26. Without prejudging or interdicting any aspect of applicant's case, we note our concern about this matter and our expectation that the record in this case will develop the point. Given our practice of not permitting expansive amendments to applications after publishing

notice, we think it advisable to publish the broadest possible interpretation, and we shall so require.

Accordingly, we shall interpret applicant's request as follows:

Charter operations, transporting passengers and their baggage 1/ between points in the Metropolitan District, restricted (A) to transportation in vehicles with a manufacturer's maximum designed seating capacity of 24 passengers, excluding the driver, and (B) against transportation between points solely within Virginia. 2/

If this interpretation is incorrect in any way, applicant shall file a clarification within five (5) days of the date of this order.

First we shall deal with the application for temporary authority (Case No. AP-85-02). Mr. Kim states that applicant is a "small tour company, exclusively for Korean people," whether residents of this area or arriving from abroad. Mr. Kim further states that his is the only company providing Korean tour guide service licensed by the District of Columbia, and that his company's services are a part of comprehensive tour packages offered by travel wholesalers in California, New York and overseas.

For large groups, applicant charters buses, "mostly from American Coach Lines". For small groups, applicant had been using its own 15-passenger van but states that it discontinued using the van pending disposition of these applications.

Mr. Kim states that last summer many of the Koreans visiting here stayed at the Shoreham Hotel. Mr. Kim submitted a letter from the Tour & Travel Service Manager of the Shoreham stating that the Shoreham staff have worked "closely" with Washington U.S. Tours, describing services offered by applicant, and stating that applicant is a regional agent for California and New York tour wholesalers. The letter further states that all of applicant's tour groups that stayed at the Shoreham "expressed their satisfaction with [applicant's] professional and personal services." The letter concludes that the writer "strongly

1/ Although on both applications Mr. Kim checked "No" to item No. 2 about transporting baggage, we fail to see how "airport transfers" can be conducted satisfactorily without carrying baggage. Provision has been made for correcting this or any other misinterpretation of, or error in, applicant's request.

2/ See Compact, Title II, Article XII, Section 1(b).

feels" that an operator like applicant will certainly help increase the Korean-speaking market.

The Compact, Title II, Article XII, Section 4(d)(3), provides that temporary authority may be granted if "there is an immediate and urgent need" for the service and "no carrier service capable of meeting such need." This record presents evidence of neither. There is no evidence that any tours have been booked. On this point there is, in fact, only one sentence. "We are expecting a lot of tour business for Koreans visiting here in the near future". This statement by applicant does not rise to the level of evidence of need, much less immediate and urgent need. With regard to large groups, applicant already uses buses chartered from a WMATC certificated carrier, presumably placing its licensed Korean-speaking guides on the chartered buses. There is no evidence that similar service in vans for smaller groups is not similiary available and equally satisfactory.

On this record we cannot grant temporary authority. We will, however, schedule the temporary authority application for consolidated hearing along with the certificate application so that applicant may, if he chooses, present evidence on the matter of temporary authority. 3/

Turning now to the certificate application (Case No. AP-85-01) we note that applicant now holds two vehicles in which it proposes to provide service: one 15-passenger van, and one 5-passenger station wagon. Applicant proposes to acquire one more 15-passenger van and one 24-passenger minibus.

Applicant proposes to provide airport transfers by van to or from Washington National Airport and unspecified bus and train terminals for \$60, and transfers to or from Dulles International Airport for \$80. Charter sightseeing or general charter by van would be \$25 an hour with a four-hour minimum. "Guide or escort" service would be an additional \$40 per transfer, and \$10 per hour (four-hour minimum) on other charter services. No rates are specified for services provided in the station wagon or the proposed 24-passenger minibus.

The application includes an operating statement, a balance sheet, and projections of revenue and revenue deductions for years 1985 through 1987.

3/ In any application, including one for temporary authority, we would also consider the matter of applicant's fitness. Because we cannot now grant this application for other reasons, it is not necessary in this order to consider applicant's fitness.

Pursuant to the Compact, Title II, Article XII, Section 4, this application must be scheduled for public hearing to determine if applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of the Compact and the rules, regulations and requirements of the Commission thereunder, and to determine if the proposed transportation is or will be required by the public convenience and necessity.

Applicant will be required to publish notice of these applications in a newspaper of general circulation in the Metropolitan District. Pursuant to the Compact, Title II, Article XII, Section 19, applicant will be assessed an amount preliminarily estimated to cover hearing costs.

Finally, applicant is reminded of (A) the provisions of General Order No. 21 with regard to being prepared to proceed at hearing with all pertinent issues, (B) the provisions of Commission Rule 23 with regard to exhibits and copies thereof, and (C) the provisions of Commission Rule 3 entitling applicant to be represented by an attorney.

THEREFORE, IT IS ORDERED:

1. That a public hearing in Case Nos. AP-85-01 and AP-85-02 is hereby scheduled to commence on Tuesday, February 26, 1985, at 9:30 a.m. in the Hearing Room of the Commission, 1625 I Street, N.W., Room 314, Washington, D.C. 20006.

2. That applicant shall publish once in a newspaper of general circulation in the Metropolitan District notice of these applications and the hearing thereon, in the form prescribed by the Commission staff, no later than Thursday, January 31, 1985, and shall present at the hearing an affidavit of publication from the selected newspaper.

3. That any person desiring to protest either or both applications shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard on these matters shall so notify the Commission, in writing, no later than Monday, February 11, 1985, and shall simultaneously serve a copy of such protest or notice on Mr. Young S. Kim, Washington U.S. Tours, 3536 Carlin Springs Road #6, Bailey's Crossroads, Va. 22041.

4. That applicant is hereby assessed \$500 pursuant to Title II, Section XII, Section 19 of the Compact, and is directed to deliver said amount to the office of the Commission, 1625 I Street, N.W., Suite 316, Washington, D.C. 20006, no later than 12 noon on Wednesday, February 13, 1985.

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



WILLIAM H. MCGILVERY
Executive Director