

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2681

IN THE MATTER OF:

Served March 8, 1985

Application of CLARENCE B. NELSON,)
T/A MINI-BUS LIMOUSINE AND SCHOOL)
BUS SERVICE, for Temporary)
Authority to Conduct Charter)
Operations)

Case No. AP-85-07

By application filed February 4, 1985, as amended, Clarence B. Nelson, trading as Mini-Bus Limousine and School Bus Service, seeks temporary authority to transport passengers and their baggage, in charter operations, between points in the Metropolitan District, 1/ restricted to service performed in vehicles with a manufacturer's designed seating capacity of 29 passengers or less, not including the driver.

Notice of the application was published by Order No. 2662, served February 7, 1985, and protests were due by February 14, 1985. No protests were filed.

Applicant proposes to operate a charter service for small and mid-sized groups. He would operate two vans, one seating 14 and the other 19 passengers. He proposes to charge \$25 an hour for the smaller van and \$27.50 an hour for the larger van, with a 3-hour minimum during the winter months and a 4-hour minimum the rest of the year.

The application is supported by 12 would-be users of the proposed service. The Middle Atlantic Conference, Riverdale, Md., indicates that it would use applicant's service on a monthly basis for airport transfers between its facilities and National Airport. Wedgewood Productions, Inc., Crownsville, Md., plans to use the service in the coming months for the transportation of persons attending conventions within the Metropolitan District. National Fine Arts, Inc., Washington, D.C., likewise indicates an intent to use the applicant's service in the very near future in connection with museum programs and specialized tours.

1/ Order No. 2662, served February 7, 1985, and incorporated herein by this reference, dismissed the application under Title II, Article XII, Section 1(b) of the Compact to the extent that it sought authority to transport passengers solely within Virginia.

The International Law Institute, Washington, D.C., states that it will use applicant's service for the transportation of groups that require personalized service or small groups that do not need a full-size bus. The Visitor Program Service of Meridian House International, Washington, D.C., indicates it will use the proposed service once or twice a month to transport groups of foreign visitors traveling under U.S. Government invitation. Washington Guides International, Inc., Washington, D.C., states that it will use the service to transport approximately 40 passengers a month and that it has had difficulty in finding service capable of meeting its needs.

The Public Affairs Department of United States Steel Corporation, Washington, D.C., states that it will use the proposed service to meet groups of out-of-town company personnel at the airport and take them to various points in the metropolitan area. The Academy for Educational Development ("AED"), Washington, D.C., states that it will use applicant's service to transport groups of visitors to appointments in the Washington metropolitan area and to and from airports. AED further indicates that it has had difficulty finding other companies offering vans of appropriate size to accommodate its needs, and that applicant's service is needed to transport a group scheduled to arrive very soon.

The law firm of Interdonatos, Lombard, Reilly & Comstock, Washington, D.C., states that it used applicant's service for a round-trip movement to Baltimore, Md., and found it to be pleasant and courteous. Boyd B. Sibert, an employee of Legg Mason Wood Walker, Inc., Washington, D.C., states that he will use the applicant's service in an individual capacity along with a group of his friends for transportation to and from the airport. Associated Universities, Inc., indicates that it has a need for the applicant's service to be available in April to transport a group of 45 officials from hotels to meetings to evening functions in connection with its Washington meetings. This organization indicates that it requires the type of personalized service that is implicit in the applicant's proposal. Finally, Fluor Corporation, Washington, D.C., states that it has been unable to find a van service that is capable of providing attention to detail, on-time performance, attractive equipment, and a professional staff, all of which are attributes of the applicant's proposed service that this organization needs when it transports clients and senior corporate staff to and from meetings.

We find the statements of support, taken as a whole, fairly support the conclusion that there is an immediate and urgent need for the applicant's proposed service that cannot be met as well by existing carriers. At least two supporters indicated specifically a need for the applicant's service in the immediate future, which imparts a quality of urgency to their requirements. Similarly, three supporters said they have been unable to obtain satisfactory service from other carriers. The remaining statements leave little doubt that there is a bona-fide demand for the applicant's service on a level sufficient to

justify an award of temporary authority throughout the entire Metropolitan District.

Applicant admits he has previously operated his proposed service without appropriate authority. His excuse is ignorance of the Compact's certification requirements. We find the inference of lack of compliance fitness to be drawn from applicant's past conduct, standing alone, to be outweighed by the fact that applicant has ceased unauthorized operations and has filed this application. In the circumstances, we find that it is a proper exercise of discretion to grant the temporary authority requested, but this action creates no presumption with regard to any application for permanent authority that may be filed. (Compact, Title II, Article XII, Section 4(d)(3).)

We come, finally, to the matter of the equipment which applicant may operate under temporary authority. An amendment proposing a restriction to vehicles seating 29 passengers or less was submitted by applicant's counsel in a letter dated February 14, 1985. As a result, Gold Line, Inc., agreed not to protest the application. We find that a restriction to 19 passenger vehicles is appropriate, however, because it corresponds to the equipment the applicant has on hand and intends to operate under temporary authority, as indicated in the application. We recognize that the applicant may plan to acquire larger equipment at some future time, but such an acquisition should not be made on the strength of a 180-day grant of temporary authority, which carries no presumption of a grant of permanent authority.

THEREFORE, IT IS ORDERED:

1. That Clarence Nelson t/a Mini-Bus Limousine and School Bus Service is hereby granted temporary authority to transport passengers and their baggage, in charter operations, between points in the Metropolitan District, restricted to service performed in vehicles with a manufacturer's designed seating capacity of 19 passengers or less, not including the driver, subject to the remaining ordering paragraphs below.

2. That Clarence Nelson t/a Mini-bus Limousine and School Bus Service is hereby directed within 15 days of the date of service of this order to file with the Commission (a) two copies of an affidavit certifying compliance with Commission Regulation No. 68-03 governing identification of vehicles, (b) two copies of a tariff in the form prescribed by Regulation No. 55 applying to operations to be conducted under temporary authority, and (c) three copies of a certificate of insurance evidencing the existence of security for the protection of the public in the amounts required by Regulation No. 62-03, as amended.

3. That, upon compliance with the requirements of the preceding paragraph within the time set therefor or such additional

time as may be authorized by order, the Executive Director shall notify applicant, in writing, that he may commence operations pursuant to temporary authority, whereupon the grant of temporary authority herein ordered shall become effective.

4. That, upon being effective in accordance with the preceding paragraph, such temporary authority shall remain in effect for 180 days, unless otherwise ordered by the Commission.

5. That, should Clarence Nelson t/a Mini-Bus Limousine and School Bus Service desire to continue service beyond the period of temporary authority, an application for a certificate of public convenience and necessity shall be filed within thirty days of the service date of this order to permit adequate time for orderly processing.

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


WILLIAM H. MCGILVERY
Executive Director