

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2738

IN THE MATTER OF:

Served July 22, 1985

Application of AMERICAN COACH)
LINES, INC., for Declaratory Order)
or, in the Alternative, Temporary)
Authority to Conduct Charter)
Operations Between Points in the)
Metropolitan District)

Case No. AP-85-08

By application filed February 12, 1985, American Coach Lines, Inc. ("ACL" or "applicant"), seeks a declaratory order defining the scope of WMATC Certificate No. 1 as authorizing charter operations between points in the Metropolitan District. In the alternative, ACL seeks temporary authority to conduct charter operations between points in the Metropolitan District 1/ Based on a statement of immediate and urgent need and supporting affidavits submitted March 7, 1985. 2/

The application was protested by Gold Line, Inc. ("Gold Line"), Eyre Bus Service, Inc. ("Eyre"), National Coach Works, Inc. ("NCW"), The Airport Connection, Inc. ("TAC"), Webb Tours, Inc. ("Webb"), 3/ and T & S Bus Service, Inc. ("T & S"). Protestants urge the Commission to deny ACL the relief sought in its Petition for Declaratory Order, deny ACL's application for temporary authority, and instruct ACL to cease any unlawful operations which it is currently conducting.

APPLICATION FOR DECLARATORY ORDER

Applicant holds WMATC Certificate No. 1 which authorizes transportation of passengers for hire as follows:

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- 1/ To the extent this application could be interpreted to seek authority to transport passengers between points located solely within Virginia, it was dismissed by Order No. 2666, served February 19, 1985.
- 2/ A third aspect of this filing, an application by ACL to increase and restructure its existing rates was disposed of by Order No. 2686, served March 22, 1985.
- 3/ Webb Tours, Inc., subsequently withdrew its Protest.

IRREGULAR ROUTES:

Passengers and their baggage:

(a) CHARTER OPERATIONS:

Round-trip sightseeing or pleasure tours, between points in the Metropolitan District;

(b) SPECIAL OPERATIONS:

Round-trip sightseeing or pleasure tours, between points in the Metropolitan District.

RESTRICTED in (a) and (b) above against any intrastate transportation within the states of Maryland and Virginia.

Applicant's current certificate, which is quoted above, was issued August 9, 1984, pursuant to Order No. 2589, upon the acquisition by VIP Coach Services, Inc., ("VIP") of White House Sightseeing Corporation (now ACL). The certificate differs slightly as to form but is identical in substance to the certificate issued to White House on October 23, 1964. That 1964 certificate which also was restricted against intrastate transportation in Maryland or Virginia read as follows:

IRREGULAR ROUTES:

Passengers and their baggage:

(a) CHARTER OPERATIONS

Round-trip, sightseeing or pleasure tours;

From points within the Metropolitan District, to points within the Metropolitan District.

(b) SPECIAL OPERATIONS:

Round-trip, sightseeing or pleasure tours;

From points within the Metropolitan District, to points within the Metropolitan District.

The authority contained in both of applicant's above-quoted certificates is identical to the authority first issued White House Sightseeing Corporation ("White House") pursuant to its grandfather application under Title II, Article XII, Section 4(a) of the Compact. By Order No. 157, served June 18, 1962,

the Commission found that White House was bona fide engaged in, and therefore entitled to a certificate authorizing, the following transportation:

IRREGULAR ROUTE SPECIAL OR CHARTER OPERATIONS:

Passengers, and their baggage, in special or charter operations consisting of round trip sightseeing or pleasure tours, beginning and ending at points within the Metropolitan District, restricted, however, from performing transportation intrastate within the States of Maryland and Virginia.

It is ACL's position that this authority which replicates that in White House's Interstate Commerce Commission ("ICC") certificate should be interpreted to include charter transportation between all points within the Metropolitan District, including intrastate transportation in Montgomery and Prince George's Counties, Md., and also to include all types of charter transportation including one-way transfers. As authority for this position, ACL relies on the fact that the ICC has interpreted the phrase "round-trip sightseeing and pleasure tours" in cases involving special operations but not in cases in which charter operations were at issue. ^{4/} ACL asserts that the absence of relevant case law indicates that the ICC did not consider sightseeing and pleasure tours to be included in charter authority and that, therefore, the restriction applied to White House's special operations only.

According to ACL, the propriety of applying the round-trip sightseeing and pleasure tour language to special operations only is apparent in light of the ICC's efforts to authorize carriers to conduct such tours while simultaneously protecting regular route carriers. Applicant contends that a similar restriction would serve no purpose as to charter service wherein a group of persons is provided exclusive use of a vehicle to be used at its direction because such service bears no resemblance to, and does not compete with, regular route common carrier service.

We find ACL's Petition for Declaratory Order to be without merit. We note first that more than two decades have elapsed since the close of the evidentiary phase of White House's application for grandfather authority. Title II, Article XII, Section 4(a) of the Compact provides that:

^{4/} See e.g., Asbury Park - New York Transit Corp. v. Bingler Vacation Tours, Inc., 62 M.C.C. 731 (1954) aff'd, Bingler Vacation Tours, Inc. v. United States, 132 F. Supp. 793 (D. N.J. 1955).

. . . if any person was bona fide engaged in transportation subject to this Act on the effective date of this Act, the Commission shall issue such certificate . . . if application for such certificate is made to the Commission within 90 days after the effective date of this Act. (emphasis added)

White House timely filed for a WMATC certificate under this provision of the Compact, and the Commission granted it authority to operate as embodied in Order No. 157 and, later, WMATC Certificate No. 1. The plain language of applicant's authority indicates that the restriction at issue applies to charter operations. If White House were of the opinion that it had not been awarded authority commensurate with the operations which it was performing on March 22, 1961, White House had 30 days in which to petition for reconsideration pursuant to Title II, Article VII, Section 16 of the Compact. If reconsideration were denied, White House's remedy lay in appeal to the United States Court of Appeals for the District of Columbia. No such action was taken despite the virtual certainty of success at the time, had the law and the facts been as alleged.

We turn now to an analysis of applicant's legal argument in support of its Petition. Upon White House's timely filing for WMATC authority pursuant to Title II, Article XII, Section 4(a) of the Compact, the Commission granted White House authority identical to that which it held from the ICC. Its ICC certificate entitled White House to transport passengers ". . . in special or charter operations consisting of round-trip sightseeing or pleasure tours . . ." 5/ The plain language of that certificate indicates that White House had authority at least part of which was restricted to round-trip sightseeing and pleasure tours. Common rules of construction would apply the modifying phrase which is at issue in this Petition either to both special and charter operations or to charter operations alone. Under no construction would the phrase be considered applicable solely to special operations.

As authority for the proposition that the round-trip sightseeing restriction applied solely to special operations, ACL points to the absence of case law interpreting a charter certificate restricted to round-trip sightseeing and pleasure tours, the definition of charter operations as those in which a group has exclusive use of a vehicle, and the concern the ICC historically showed for the protection of regular route carriers.

We find these arguments unpersuasive. Absence of case law would mean only that the issue was never litigated and published. Absence of case law stands more easily for the proposition that the

5/ ICC Certificate No. MC 110258.

meaning of the phrase "round-trip sightseeing or pleasure tours" was so well understood and accepted as applying to charter operations that the need to relitigate the meaning of the phrase once it had been interpreted by the ICC 6/ never arose, than it does for the proposition advanced by ACL that it was not so applied.

Nor does the fact that charter operations refer to group transportation in which the group has exclusive use of the vehicles add anything to applicant's argument when considered in its legal and historical context. Absent a specific grant of authority, White House would have been unable to conduct charter sightseeing operations because it was not a regular route carrier. 7/ Moreover, in differentiating between charter and special operations, the ICC has defined charter service as that which entails providing transportation for a group, assembled by someone other than the carrier, which contracts for the exclusive use of a vehicle ". . . for the duration of a particular trip or tour." (emphasis added) 8/ This definition recognizes that the fact that use is exclusive fails to address the type of use to which a carrier's transportation services will be put. Certainly it is easy enough to distinguish between charter use for tour purposes and charter use for point-to-point transportation. It is also easy to distinguish between round-trip and one-way transportation. Applicant offers no reason why such distinctions should not be drawn other than the ICC's concern regarding protection of regular route carriers. This argument cuts against applicant, however. The regular route carrier on which passengers depended for daily transportation and which was necessary to the maintenance of an orderly transportation system, was, in fact, accorded special treatment intended to keep such carriers economically viable. The goal of maintaining the economic health of regular route carriers was furthered by the ICC in two ways: (1) the grant of limited authority, including limited charter authority, to irregular route carriers such as White House and (2) the automatic grant of "incidental" charter authority to regular route carriers. This policy, inter alia, effectively reduced the regular route operators' charter competition, thereby increasing the pool of charter revenues potentially available to them.

From its inception, this Commission has recognized that charter operations may be restricted. On October 23, 1964, the Commission issued certificates of Public Convenience and Necessity Nos. 1, 2, and 3. Two certificates, including that issued to White House, restricted charter operations to round-trip sightseeing and pleasure

6/ Asbury Park-New York Transit Corp. v. Bingler Vacation Tours, Inc., supra; Michaud Bus Lines, Inc., 100 M.C.C. 432 (1966).

7/ Peninsula Transit Corp. 1 M.C.C. 440 (1937).

8/ Brown's Bus Service, Inc., 83 M.C.C. 261, 264 (1960).

tours. The third certificate authorized unrestricted charter operations. 9/ There is no indication that White House or any carrier to whom similarly restricted charter authority was granted was of the impression that the Commission had wrongly withheld that authority to which it was entitled under the Compact. Under applicant's argument any carrier which had been conducting interstate charter operations prior to the effective date of the Compact might have been expected to object to the round-trip sightseeing and pleasure tour restriction since the imposition of such a restriction would have been new and would have rendered illegal operations previously conducted pursuant to ICC authority. Neither White House nor any other carrier whose certificate was similiary restricted sought reconsideration or filed an appeal. Were the Commission's restriction as novel as applicant contends, one would have expected such action. For the reasons stated above, the Petition for Declaratory Order shall be denied.

APPLICATION FOR TEMPORARY AUTHORITY

Should the Commission deny ACL's Petition for Declaratory Order, applicant seeks, in the alternative, temporary authority pursuant to Title II, Article XII, Section 4(d)(3) of the Compact to conduct charter operations between points in the Metropolitan District. If granted, this authority would enlarge ACL's current authority for a period not to exceed 180 days by enabling it to conduct general charter operations including one-way and round-trip transfers between points in the Metropolitan District including between points located solely within Montgomery and Prince George's Counties, Md.

The proposed service would be conducted using 20 coaches, ranging in vintage from 1975 to 1983. Applicant's proposed tariff indicates a rate of \$45 per hour with guide and \$40 per hour without guide, minimum daily charge \$175 per vehicle. A separate rate of \$150 per vehicle would apply to airport transfers. A surcharge of \$10 per

9/ Minutes of the Washington Metropolitan Area Transit Commission, Vol. 1, p. 79.

vehicle would be charged for service rendered between 7 p.m. and 7:30 a.m. 10/

In support of its application, ACL states that the entity operating under WMATC Certificate No. 1 has performed the type of operations for which temporary authority is here sought continuously since 1947 in the good faith belief that such operations were legal. As a result of such operations, ACL asserts that its clientele would be left without service should this application be denied.

ACL submitted five affidavits in support of its application for temporary authority. Frank Sherman attested that Carter Tours, Ltd., a tour packager, has relied on ACL as its primary charter carrier for the past two years. 11/ According to Mr. Sherman, ACL provides flexibility in handling large moves and provides personal service. Carter Tours has made bookings with applicant through the summer including two large movements each requiring approximately 20 buses. Absent ACL, Carter Tours claims it would be left without the service it needs inasmuch as Gold Line is too expensive to satisfy Carter Tours' contract requirements, and Red Top Coach, Inc., which Carter used in the past, has ceased operations. (We note here that Red Top's Certificate No. 26 has been transferred to, and is being operated by, protestant NCW.)

Jean Fulks is president of T.S.&R. Services, Inc., a transportation, sightseeing, and reservation service, which is an agent of Gray Line. According to Ms. Fulks, it is not uncommon for Gray

10/ Applicant's proposed tariff differs from that which ACL currently has on file with the Commission in that it contains increased charter rates, deletes a category of vehicle and rates therefor, and strangely enough in light of its good faith argument, introduces rates for airport transfers. While ACL claims to be providing airport transfers in good faith, its current tariff does not provide a rate for such service, and the Compact quite unequivocally provides:

No carrier shall charge, for any transportation subject to this Act, any fare other than the applicable fare specified in a tariff filed by it under this section and in effect at the time.

[Compact, Title II, Article XII, Section 5(d).]

11/ ACL has not been in existence for two years, and Mr. Sherman fails to specify whether, prior to ACL, it secured such service from its predecessor VIP or from its predecessor White House. As we will discuss later, this is far too important a distinction to be glossed over.

Line 12/ to be incapable of providing charter service on request. In the first week of January 1985, Ms. Fulks needed service. Gray Line was full, the company which T.S.&R. had used in the past (apparently Red Top) had discontinued business, but ACL was able to provide service. Ms. Fulks has no bookings for future charter service but nonetheless attested that T.S.&R. has an immediate need for the Commission to grant ACL's application for temporary authority because guests often request charter service on very short notice.

Erna Silberstein, president of Tailored Tours, Ltd., attested that Tailored Tours has used ACL for sightseeing and shuttle service, has always been satisfied with its service, and anticipates doing business with it again. According to Ms. Silberstein, ACL supplies quality buses and capable drivers at favorable prices as compared with Metro. Although Tailored Tours has used Eyre's, that company has not always been able to supply the number of vehicles required. Tailored Tours does not use Gold Line because its service does not satisfy the individualized needs of small groups such as those handled by Ms. Silberstein's company. Tailored Tours also uses Webb when double-deck buses are required. Tailored Tours has scheduled future work with ACL. According to Ms. Silberstein, Washington has a shortage of competent charter services with quality equipment. Ms. Silberstein attests that without the service of ACL, her company would be prevented from serving its clients in the manner they have come to expect.

Herman Vogel, president of D.C. Tours, Inc., a reception operator in the Washington metropolitan area submitted an affidavit in support of ACL's application for temporary authority. D.C. Tours routinely charters motor coaches for sightseeing operations, general charter work which Mr. Vogel specifies means transportation, presumably including sightseeing, in which a client has exclusive use of the vehicle, and airport transfers. D.C. Tours has used ACL since June 1984 when White House was acquired by VIP. Before that time, D.C. Tours used other companies operated by the current owners of ACL. According to Mr. Vogel, ACL's service is superior to other service available. D.C. Tours previously used Gold Line and Eyre but no longer believes ". . . their service meets our needs." In addition, D.C. Tours uses B & A, Metro, and, primarily when special equipment is required, Spirit of '76 (Webb). Because D.C. Tours relies primarily upon ACL for charter service, it would lose the service most responsive to its needs, thereby creating an immediate and urgent need for service

12/ Gray Line is a national association to which Gold Line, Inc., belongs. In the Washington area, Gray Line is Gold Line's sightseeing branch.

should the Commission not allow ACL to continue general charter operations. 13/

Elaine Curl, Director of Marketing for Capital Informer, Inc., described the operations of her organization and its need for charter transportation. Capital Informer has used ACL in the past and has bookings with ACL in the future for local sightseeing and charter work. Capital Informer discontinued using Gold Line due to problems which resulted in Capital Informer's losing a client. Capital Informer uses Shaw and Eyre both of which, according to Ms. Curl, have limited equipment. Capital Informer relies primarily on Greyhound for its transportation needs, although the Capital Informer has a need for applicant in both the immediate and long term future.

Protestants TAC and T & S respond to the application for temporary authority and the concerns of affiants supporting the application by stating that other carriers, including themselves, already hold authority from the Commission to conduct charter operations between points in the Metropolitan District. These carriers stand ready, willing, and able to provide any service which the public may require. Protestants further state that applicant's operations in light of the clear wording of its certificate and prior WMATC orders constitute evidence of lack of fitness, not justification for temporary authority.

Protestants Gold Line, Eyre, and NCW address applicant's good faith argument by noting that, inasmuch as ACL's principals had been admonished regarding illegal operations in the course of the hearings held in Case Nos. AP-83-48 and FC-83-02, 14/ and in Order No. 2550, served May 1, 1984, and, constructively, through the Commission's decision in Case No. AP-82-11, 15/ in which Mr. Carroll, now with ACL, was a witness for Gold Line, there is no possible way that the owners and management of ACL could not have known that the general

13/ Mr. Vogel attests that White House provided general charter service and airport transfers in the 1970's. Such operations are not relevant to an application for temporary authority filed in 1985. Nor are White House's grandfather rights implicated inasmuch as such operations occurred subsequent to March 22, 1961.

14/ Application of VIP Coach Services, Inc., for a Certificate of Public Convenience and Necessity to Conduct General Charter Operations consolidated with the formal complaint of White House Sightseeing Corporation v. VIP Coach Services, Inc.

15/ Application of Webb Tours, Inc., for a Certificate of Public Convenience and Necessity to Engage in Charter Operations. See Order No. 2404, served March 30, 1983.

charter service which the company has been and is providing, was and is beyond the scope of its operating authority.

Protestants' position is that the affidavits adduced in support of ACL's application do not evidence a void in available charter service within the Metropolitan District which would justify a grant of temporary authority, given the amount of charter service currently available. Both Gold Line and Eyre operate substantial and well-maintained fleets. NCW has been granted authority to operate Red Top's certificate.

The Capital Informer, D.C. Tours, and Carter Tours expressed objections to using Gold Line. Counsel for Gold Line notes that as a ground operator Capital Informer competes with charter carriers for booking transportation for convention business. The ground operator sells a complete convention package which includes transportation booked with an authorized carrier from which the ground operator receives a commission. According to Gold Line's pleading, the client that the Capital Informer lost booked its transportation directly with Gold Line on one occasion, following which Capital Informer discontinued its use of Gold Line's service except for those limited instances when it could not obtain needed equipment from other sources. Had Gold Line not provided service as requested, protestant would have been in violation of the terms of its Certificate and the Rules and Regulations of the Commission. D.C. Tours, which stated without elaboration that Gold Line did not meet its needs, has been placed on a cash basis by Gold Line due to problems that carrier has experienced in collecting for past service. In response to the complaint of Frank Sherman of Carter Tours that Gold Line is too expensive, Gold Line's counsel notes that ACL's proposed rates exceed those of Gold Line and that Carter Tours makes substantial use of Gold Line, e.g., \$6,235 during the first six weeks of 1985. Ms. Fulks noted a single instance when she was unable to obtain service from Gold Line. That instance occurred during the inaugural, and Ms. Fulks has used Gold Line since that time. Tailored Tours made no use of Gold Line during 1984.

Capital Informer, Tailored Tours, and D.C. Tours raise objections to service provided by Eyre. With regard to Capital Informer's allegations that Eyre is an inappropriate substitute for ACL due to high prices and limited equipment, Eyre's counsel notes that Eyre's fleet is more than three times the size of ACL's, and Eyre's rates are lower than those proposed by applicant. D.C. Tours alleges that Eyre does not meet its needs; Eyre responds that D.C. Tours is on a cash basis. In 1984 Tailored Tours used Eyre for \$5,555 in charter revenues, in no instance using more than five buses at one time.

Counsel for NCW indicates that the company has received authority to conduct general charter service within the Metropolitan District under Certificate No. 26 which was formerly held by Red Top Coach. Red Top's former customers include Carter Tours, T.S.&R., and Capital Informer. NCW wants to retain Red Top's former customers. In

this connection, NCW's counsel notes that its rate schedule is identical to that of Red Top and that those rates are substantially lower than the rates proposed by ACL. It is NCW's position that its new service should be tried and found wanting in some material respect before the Commission makes a temporary grant to ACL.

Title II, Article XII, Section 4(d)(3) of the Compact commits the granting of temporary authority to the Commission's discretion upon a finding that there is an immediate and urgent need for service to a point or points or within a territory having no carrier service capable of meeting that need. The purpose of temporary authority is to provide an interim service when none exists and there is preliminary evidence of need. Temporary authority is statutorily limited to 180 days during which period a carrier has sufficient time to apply for and, if the evidentiary burden of Title II, Article XII, Section 4(b) of the Compact is met, receive a certificate of public convenience and necessity.

We find that sufficient carrier service by properly certificated carriers is available in the Metropolitan District to meet the need for charter service to which applicant's public witnesses attested. Upon receiving notice of ACL's application for temporary authority no fewer than six 16/ carriers came forward as protestants, thereby announcing their readiness and willingness to provide the service which applicant proposes to offer and without which applicant maintains its clientele would be without adequate service. A review of the record in this case indicates that no affiant relies entirely on ACL for charter service. Four of ACL's affiants indicate an aversion for various reasons, including expense and lack of equipment, to using Gold Line, the dominant private motor coach operator in the Metropolitan District. Two of ACL's affiants state that they have been unable to secure sufficient equipment from Eyre. We note that the protestants so named have larger fleets than applicant, although Eyre's authority from the Commission is sufficiently limited that it may in

16/ As noted above, one of those protestants, Webb Tours, Inc., which specializes in double-deck buses has since withdrawn. After Webb withdrew, ACL amended its application adding a restriction against transportation in double-deck buses.

fact not be able to provide service as requested. 17/ Moreover, all protestants offer service at rates lower than those listed in applicant's proposed tariff. Even in those instances where a potential customer objects to using a specific carrier, he is not without service inasmuch as at least four other options are available. Simply put, preference for the services of an unauthorized carrier does not create immediate and urgent need within the context of Title II, Article XII, Section 4(d)(3) of the Compact.

We note that even had ACL made a stronger evidentiary showing, its fitness, which is always an issue in such matters, 18/ would remain a bar to granting ACL's application for temporary authority. Fitness is an issue in every application because a carrier which lacks operational and financial fitness will be incapable of providing the proposed service for which authority is sought. Likewise, a carrier which is deficient in the area of compliance fitness cannot be relied on to fulfill those obligations which an authorized carrier owes the public. Applicant asserts that it has been operating in the good faith belief that WMATC Certificate No. 1 authorized it to perform general charter operations in the Metropolitan District. In its Reply to Protests, ACL admits its continued general charter operations during the pendency of this application and states its position as follows:

The present owners of American Coach Lines, Inc., bought the stock of the corporation [White House] and

17/ Eyre has the following charter authority from this Commission:

IRREGULAR ROUTE

A. Charter Operations:

From Damascus, Md., and points in Montgomery County, Md., within 15 miles of Damascus, Md., except Rockville, Md., to points in the District of Columbia and Fairfax and Arlington Counties, and the Cities of Alexandria and Fairfax, Va., and return, round-trip only.

* * *

C. Restriction:

The transportation of passengers having a prior or subsequent movement by air is specifically prohibited.

18/ Application of Suburban Transit Company for Temporary Authority to Serve the Capital Center, Order No. 1643, served January 24, 1977. See also Order Nos. 2440 and 2448, served July 8, 1983, and August 10, 1983, respectively.

took over operations last year. As the application materials submitted to the Commission indicate, they continued performing the identical services which the company had conducted for decades. Then, several weeks ago, a question was raised as to whether these operations are within a potentially restrictive interpretation of the certificate. The question was something of a surprise because the company had simply continued performing the identical service which it had always offered and all concerned parties understood those operations as being within the scope of its authority. (emphasis added)

In answer to this bald assertion, we note that White House had been formally advised at least once that it lacked authority to perform any charter movements other than round-trip sightseeing and pleasure tours. 19/ Moreover, the principals of ACL were the principals of VIP at the time it acquired control of White House and in that capacity had ample opportunity to become familiar with the Compact and the Commission's rules and regulations in general and with the operating rights of White House (now ACL) in particular. In Case No. AP-83-48, Application of VIP Coach Services, Inc., for a Certificate of Public Convenience and Necessity to Conduct General Charter Operations which was consolidated for hearing with formal complaint FC-83-02, White House Sightseeing Corporation v. VIP Coach Services, Inc., the fitness of VIP emerged as a major issue. At the time of its application VIP held no authority from the Commission but, according to its witness's own admission on the record, was conducting airport transfers and sightseeing operations within the Metropolitan District. After three days of hearings but before the hearing process was complete, VIP withdrew its application, White House requested its complaint be dismissed, and VIP filed Case No. AP-84-06, Application of VIP Coach Services, Inc., to Acquire Stock Control of White House Sightseeing Corporation. The three cases were consolidated for decision. By Order No. 2550, served May 1, 1984, all three cases were dismissed, thereby enabling the subsequent acquisition of White House by the principals of VIP. In dismissing the stock acquisition application for want of jurisdiction, VIP's (now ACL's) principals were admonished as follows:

It is clear that the prospective principals of White House are experienced with regulation generally and with the requirements of this Commission. With due diligence from those principals, both White House and VIP should comply fully with those requirements. By way of example, we note that VIP expressed an opinion that it may legally transport passengers between Dulles and National airports, on the one hand, and, on the other, points in the Metropolitan District,

19/ Order No. 1525, served March 29, 1976.

pursuant to an exemption in the Interstate Commerce Act. We expect the carriers and their principals to know that the Interstate Commerce Act, to that extent, is suspended, D.C. Code (1981 Ed.) §1-2414, and also to know that WMATC authorization is required for such service. Executive Limousine Service, Inc., v. Goldschmidt, 628 F.2d 115 (D.C.Cir. 1980). Should the principals of VIP and White House fail to exercise due diligence in becoming familiar with, and observing, the requirements of the Commission, we shall not hesitate to take corrective action against both corporate and individual persons.

In light of this specific admonition issued so recently regarding the need for additional authority to perform airport work, 20/ applicant's contention that it has been performing general charter work including airport transfers under the good faith belief that its grandfather rights so entitled it is not credible. ACL's application for temporary authority shall be denied.

INTERPRETATION OF WMATC CERTIFICATE NO. 1

A review of Orders Nos. 157 and 2589, served June 18, 1962, and August 2, 1984, respectively, and the certificates issued pursuant to those orders indicates that WMATC Certificate No. 1 embodies all grandfather authority to which White House was entitled pursuant to Title II, Article XII, Section 4(b)(3) of the Compact and which has since passed to ACL as its successor in interest. That authority consists of special and charter operations, both of which are restricted to round-trip sightseeing or pleasure tours and both of which are restricted against transportation between points located solely within the Commonwealth of Virginia or the State of Maryland. ACL is hereby directed to cease and desist from any and all operations which lie outside the scope of that authority.

THEREFORE, IT IS ORDERED:

1. That the Petition of American Coach Lines, Inc., for Declaratory Order is hereby denied in its entirety.

20/ As noted above, VIP had been performing sightseeing operations and airport transfers at the time it applied for a certificate of public convenience and necessity. It subsequently sought to have that application dismissed and to acquire the stock of a company which held a certificate authorizing only sightseeing operations. Thus, specific attention was focused on those operations which ACL's principals were performing at the time of the acquisition but which the acquisition would not grant them authority to conduct.

2. That the application of American Coach Lines, Inc., for temporary authority to conduct general charter operations between points in the Metropolitan District is hereby denied in its entirety.

3. That American Coach Lines, Inc., and its officers, agents, and servants are hereby directed to cease and desist from conducting all operations outside the scope of its certificate as discussed in the body of this order.

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


WILLIAM H. MCGILVERY
Executive Director