

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2755

IN THE MATTER OF:

Served August 23, 1985

Application of BROWN'S LIMOUSINE )  
CREW CAR, INC., for Temporary )  
Authority — TWA )

Case No. AP-85-24

By application filed July 29, 1985, Brown's Limousine Crew Car, Inc. ("Brown's" or "applicant"), seeks temporary authority to provide transportation for cockpit crews and flight attendants of Trans World Airlines, Inc., ("TWA") between Washington Dulles International Airport, Herndon, Va., and Washington National Airport, Gravelly Point, Va., on the one hand, and, on the other, the Vista International Hotel, Washington, D.C.

Notice of the application and a summary of the evidence submitted in its support was published by Order No. 2743, served August 1, 1985, and that order is incorporated by reference herein. On August 8, 1985, Call-A-Messenger, Inc., timely protested the application.

By its protest and the supporting addidavit of its Vice-President, Joseph A. Reilly, Call-A-Messenger asserts that it stands ready, willing, and able to provide the service involved, has provided the service in the past, and is currently providing satisfactory service for TWA between Washington Dulles International Airport and Washington National Airport. Mr. Reilly attests that protestant has sufficient equipment and drivers as well as the requisite WMATC authority to provide the service which is the subject matter of this application. In addition, Call-A-Messenger protests a grant of Brown's application for temporary authority on the grounds that applicant lacks the fitness requisite to such a grant. According to Call-A-Messenger, it provided the service for which applicant here seeks authorization until approximately April 15, 1985, at which time, Brown's began providing the service. Call-A-Messenger alleges that Brown's filed its application because its illegal operations were discovered, that Brown's consciously and voluntarily took the risk that the open illegality of its service for TWA would not be discovered, thereby indicating a conscious disregard of the Commission's regulatory requirements and of the requirements of the Compact.

DISCUSSION AND CONCLUSIONS

Applications for temporary authority are decided under Title II, Article XII, Section 4(d)(3) of the Compact, which provides that:

To enable the provision of service for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need, the Commission may, in its discretion and without hearings or other proceedings, grant temporary authority for such service.

Considering this application in the context of Section 4(d)(3), we conclude that it must be denied. Assuming, without deciding, that there is an "immediate and urgent need" for service within the scope of the application, there is no basis in the evidence on which to find "no carrier service capable of meeting such need."

Pursuant to Special Authorization Nos. SP-55-03 and SP-55-05, protestant Call-A-Messenger has authority from this Commission to provide the transportation which is the subject matter of this application. In addition, Call-A-Messenger is familiar with and experienced in providing these operations inasmuch as it has provided service for TWA to the Vista in the past and currently provides service for TWA between the metropolitan airports. Call-A-Messenger attests that it has sufficient equipment and drivers to provide the service for which applicant seeks authority, and that assertion remains un rebutted on the record. Given these facts, we find that Call-A-Messenger is ready, willing, and able to meet the transportation needs of Trans World Airlines, Inc., and, thus, there is no legally sufficient basis on which to grant the requested temporary authority. Accordingly, we do not reach the issue of Brown's compliance fitness.

THEREFORE, IT IS ORDERED that the application of Brown's Limousine Crew Car, Inc., for temporary authority is hereby denied.

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

  
WILLIAM H. MCGILVERY  
Executive Director 