

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2771

IN THE MATTER OF:

Served October 1, 1985

Application of SHAW BUS SERVICE, )  
INC., for a Certificate of Public )  
Convenience and Necessity to )  
Conduct Charter Operations )

Case No. AP-85-25

By motion (letter) filed at 2:55 p.m. on September 30, 1985, applicant seeks to continue until November 12, 1985, the hearing scheduled in the above-captioned matter for October 1, 1985. Applicant states that "The continuance is required as a result of rescheduling due to the storm on the East Coast." Protestants' counsel have consented to the postponement and the requested hearing date.

Commission Regulation Nos. 7-06 and 7-07 provide that any request for postponement of hearing be timely filed, state the facts on which the request relies, and show good cause. In the absence of an emergency which would prevent earlier filing, "timely" means no later than close of business on the second business day preceding the scheduled hearing. \*/ "Good cause" is most commonly evidenced by a set of circumstances so disabling to one party to a proceeding as to prevent it from adequately participating in the hearing, although lesser circumstances which would result in all parties to the case stipulating to a postponement may also suffice.

Based on these criteria, it is clear that the subject motion was not timely filed. Moreover, applicant's counsel made no attempt to establish any nexus between a storm which passed through the Washington metropolitan area on the morning of September 27, 1985, and his personal situation on October 1, 1985. In addition, applicant's letter does not constitute a stipulation inasmuch as counsel for the Commission staff, a party to every WMATC proceeding, was never consulted regarding either a possible postponement or an acceptable hearing date. Recognizing that applicant may not have been aware of

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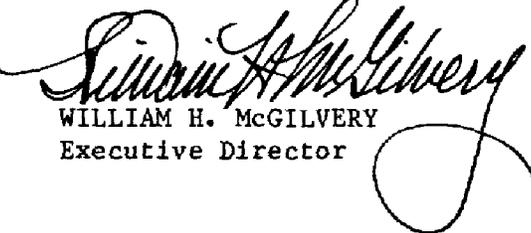
\*/ A request for a continuance filed by an applicant later than noon of the working date preceding a scheduled hearing because applicant is unprepared to present substantive evidence is so untimely as to subject applicant to payment of the hearing officer's fee. See General Order No. 21, served October 3, 1983.

the showing required to obtain a postponement, we shall grant the motion as being in the nature of a stipulation given the consent of protestants. By this order, however, we hereby notify all attorneys who appear before the Commission of the showing which must be made in order to obtain a continuance.

THEREFORE, IT IS ORDERED:

1. That the motion of Shaw Bus Service, Inc., for a continuance is hereby granted.
2. That the hearing scheduled for October 1, 1985, in the above-captioned matter is hereby cancelled.
3. That the application of Shaw Bus Service, Inc., is hereby scheduled for public hearing to commence Tuesday, November 12, 1985, at 9:30 a.m., in Room 314, 1625 I Street, N.W., Washington, D.C. 20006, and to continue from day to day thereafter until completed.
4. That all persons seeking to postpone or continue a hearing are hereby advised of the necessity to comply with Commission Regulation Nos. 7-06 and 7-07 as herein interpreted.

FOR THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Executive Director