

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2857

IN THE MATTER OF:

Served May 12, 1986

Application of ALL ABOUT TOWN, )  
INC., for Temporary Authority to )  
Conduct Special Operations, )  
Sightseeing )

Case No. AP-86-12

By application filed March 31, 1986, as amended April 8 and 14, 1986, All About Town, Inc. ("applicant"), seeks temporary authority pursuant to the Compact, Title II, Article XII, Section 4(d)(3), to transport passengers over irregular routes in special operations, conducting individually-ticketed sightseeing tours. Applicant proposes to conduct such operations between points in the District of Columbia; Prince George's County, Md., south of Route 214 (Central Avenue); and points within Virginia and the Metropolitan District south of Interstate Route 66. To the extent this application could be construed to seek authority for transportation solely within the Commonwealth of Virginia, it was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b), by Order No. 2847, served April 15, 1986.

The standards for temporary authority are set forth in the Compact at Title II, Article XII, Section 4(d)(3), as follows:

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. Such temporary authority unless suspended or revoked for good cause, shall be valid for such time as the Commission shall specify, but for not more than an aggregate of 180 days and create no presumption that corresponding permanent authority will be granted thereafter. (Emphasis supplied.)

In addition, the fitness of the applicant is always an issue. (See Order No. 1643, served January 24, 1977, at page 3.)

Order No. 2847 also described applicant's proposal sufficiently to give adequate notice to WMATC carriers who might perceive an interest therein. The order was served on WMATC carriers certificated

to provide individually-ticketed sightseeing operations, and it required that protests, if any, be filed no later than April 28, 1986.

On April 28, 1986, separate protests were filed by Gold Line, Inc.; American Coach Lines, Inc.; V.I.P. Tours, a partnership; and Eugene H. George, trading as Silver Star Sightseeing Tours.

Gold Line holds WMATC Certificate No. 14 which encompasses, inter alia, all of the authority sought by applicant. Gold Line asserts that applicant has provided no evidence of any need for service, much less immediate and urgent need. Gold Line further asserts that it provides substantially the same service proposed by applicant and that granting of authority to applicant would only divert needed traffic and revenue from Gold Line. Gold Line argues that applicant has failed to meet the burden of proof required by statute.

American Coach Lines holds WMATC Certificate No. 1 which encompasses, inter alia, all of the authority sought by applicant. American asserts that it regularly conducts tours similar to those proposed by applicant and that there is no immediate and urgent need for additional service. American asserts that applicant would be able to divert important revenues from American if the application were granted.

V.I.P. Tours holds WMATC Certificate No. 85 authorizing, inter alia, individually-ticketed sightseeing operations serving the Mall area in Washington, D.C., and a hotel in Prince George's County, Md. Applicant's proposal encompasses all of V.I.P.'s sightseeing authority. V.I.P. asserts that applicant has failed to meet the statutory requirements for a grant of temporary authority.

Eugene H. George holds WMATC Certificate No. 108 authorizing individually-ticketed sightseeing operations serving six specified hotels in Northern Virginia. Mr. George asserts that "a number" \*/ of those motels are "within the territory where applicant seeks to operate." Mr. George questions applicant's fitness and argues that applicant has failed to meet the criteria for temporary authority.

The essence of applicant's March 31 presentation appears to be that it would provide service to points "not currently served by existing carriers," and that "no WMATC-certificated carrier offers the precise services proposed by applicant at the present time." However, applicant also says that, "[t]he following carriers are believed to offer scheduled tours to one or a combination of the points proposed to be served by the applicant," American Coach Lines, Inc.; Blue Lines, Inc.; Gray Line Sightseeing (Gold Line, Inc.); and Webb Tours, Inc.

---

\*/ The number is five.

With regard to these carriers, applicant states:

American Coach Lines reduced its operations on June 1, 1985; Gray Line Sightseeing reduced its operations on March 1, 1986; Blue Lines has no plans for expansion at this time; Webb Tours has not conducted any per-capita sightseeing on a regular basis for some time.

This presentation was supplemented by applicant on April 8. In part, applicant makes representations concerning requests for service which it has received by mail or by telephone. It also makes certain representations about conversations with or telephone calls to the previously-named competitors. In addition, applicant submitted photocopies of 18 postcards distributed by applicant and returned to applicant by mail. On these postcards hotel personnel can check if they want applicant to send brochures, ticket books, ID buttons, brochure holders, and information on selling tours for commission. This presentation also included photocopies of eight pieces of correspondence, generally in the nature of thank-you notes, for service which applicant says was "booked through other carriers." "In most cases," applicant states, "the original letters have been forwarded to the drivers of the companies that actually performed the work."

None of the above-described material from the March 31 or April 8 presentations constitutes evidence which we can properly consider. Even if the material were in proper form to be considered as evidence, it would not support a finding of immediate and urgent need and no other carrier capable of meeting such need. If anything, it would tend to establish that service is available from "the companies that actually performed the work."

On April 14, 1986, applicant again submitted additional material in support of its application. This consisted of nine letters addressed to the Commission from hotels and motels located in Alexandria, Va., Washington, D.C., and Chevy Chase, Md. These letters were apparently prepared and distributed by applicant, together with envelopes in which to mail them back to applicant. Each bore an original signature and was dated between April 6 and 8, 1986. None were notarized.

Two of the letters were from Chevy Chase which is outside the area applicant proposes to serve. That left six letters from the District of Columbia and one from Alexandria. All six from the District of Columbia said that, "our hotel is serviced by one or more carriers with full-size coaches" but they would like to offer more varied and better service. The remaining letter from Alexandria stated, "To the best of our knowledge, no carrier with full-size coaches" will provide the hotel with "free pickup and return service to our guests in addition to regularly scheduled sightseeing tours of the Washington, D.C. area on a year-round basis, seven days a week."

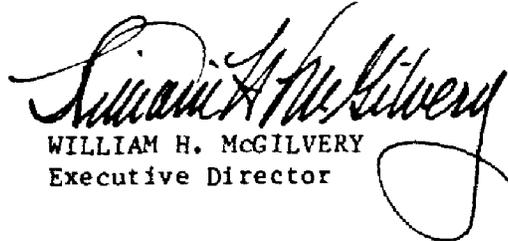
Again setting aside the question of whether these documents rise to the level of admissible evidence, we must find that:

1. the two Chevy Chase letters are irrelevant to the authority sought by applicant,
2. the six District of Columbia letters admit existing service by one or more carriers,
3. the Alexandria letter states that a highly-defined type of service is not available, and
4. none of the letters contain any indication of immediate and urgent need.

We are unable to find on this record that the applicant has established that the proposed service meets the criteria required by the Compact for a grant of temporary authority.

THEREFORE, IT IS ORDERED that the application of All About Town, Inc., for temporary authority in Case No. AP-86-12 is hereby denied without prejudice.

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

  
WILLIAM H. MCGILVERY  
Executive Director