

WASHINGTON METROPOLITAN AREA TRANST COMMISSION

WASHINGTON, D.C.

ORDER NO. 2889

IN THE MATTER OF:

Served July 29, 1986

Application to Transfer Certificate)
No. 25 from BELTWAY LIMOUSINE)
SERVICE, INC., to DD ENTERPRISES,)
INC.)

Case No. AP-86-08

By application filed March 3, 1986, Beltway Limousine Service, Inc. ("Beltway" or "transferee"), a Maryland corporation, seeks Commission approval to transfer Certificate of Public Convenience and Necessity No. 25 to DD Enterprises, Inc. ("DD" or "transferee"), also a Maryland corporation. Pending final disposition of the application, DD has been granted temporary approval to operate Beltway's Certificate No. 25 pursuant to Title II, Article XII, Section 12(d) of the Compact. See Order No. 2834, served March 7, 1986, incorporated herein by reference. The application stands unopposed.*/

Certificate No. 25 authorizes the following transportation:

PART A

IRREGULAR ROUTES:

SPECIAL OPERATIONS, limited to transportation by appointment only:

Between the Dulles International Airport, Chantilly, Va., and Washington National Airport, Gravelly Point, Va., on the one hand, and on the other, Hampshire Motor Inn, 7411 New Hampshire Avenue, Langley Park, Md.; Holiday Inn, Route 301 and Route 50, Bowie, Md.; Holiday Inn, 9137 Baltimore Boulevard, College Park, Md.; Holiday Inn, 10000 Baltimore Boulevard, College Park, Md.; Holiday Inn, Gaithersburg, Md., Howard Johnsons--Washington N.E., Baltimore-Washington Parkway, Cheverly, Md.; In State Inn, Allentown Road, Camp Springs, Md.; Interstate Inn, 8601 Baltimore Boulevard, College Park, Md.; Quality Inn, 7200

*/ Gold Line, Inc., timely protested the instant application. However, that protest was withdrawn July 22, 1986.

Baltimore Boulevard, College Park, Md.; Ramada Inn, Route 270, Gaithersburg, Md.; Ramada Inn--Washington, N.E., 8500 Annapolis Road, New Carrollton, Md.; and Washingtonian Motel, Shady Grove Road, Gaithersburg, Md.

RESTRICTED to the performance of such operations in vehicles with a seating capacity of 12 to 15 persons.

PART B

CHARTER OPERATIONS:

1. From Dulles International Airport, Chantilly, Va., points in the District of Columbia and Prince George's and Montgomery Counties, Md., to points in the Metropolitan District and return.
2. From points in the part of the Commonwealth of Virginia located within the Metropolitan District (except Dulles International Airport) to points in the Metropolitan District and return.

RESTRICTED against transportation solely within the Commonwealth of Virginia and further restricted, in Part B 2 only, (a) to the performance of such operations in vehicles having a manufacturer's designed seating capacity of 15 passengers or less (including the driver) and (b) to the performance of such operations to and from Washington National Airport only when related to a prearranged charter movement by the same party between at least two other points within the Metropolitan District.

Beltway entered into a contract to sell its assets to DD on January 31, 1986. Beltway continued operations until DD was authorized and operationally capable of providing service pursuant to Certificate No. 25.

DD is a new corporation. One hundred percent of its outstanding stock is held by Jay F. Davis, and James W. Deiso. Mr. Davis is transferee's president; Mr. Deiso is its secretary/treasurer. If this application is granted DD would conduct general charter operations and charter operations pursuant to contract using 15- and 21-passenger vehicles formerly leased by Beltway. A certificate of insurance in the amount of \$5,000,000 combined single limit covering these vehicles is on file with the Commission. The record indicates that some, if not all, of the employees would be former Beltway employees. DD's transportation operations would be managed on a day-to-day basis from the same Silver Spring location formerly used by Beltway.

Financial data supplied by DD as part of the record in this case indicates that as of April 30, 1986, transferee had current assets of \$286,794, fixed assets of \$78,459 after allowance for depreciation, and other assets including value in vehicle leases and outstanding contracts of \$798,729, resulting in total assets of \$1,163,982. Current liabilities at that same date, the most recent date for which information is available, are listed at \$303,031, long-term debt is \$553,845, and stockholders' equity is \$391,201. An operating deficit of \$84,094 was realized for the three-month period ended April 30, 1986. For the 12 months ending January 31, 1987, DD initially projected operating income of \$2,100,000 and expenses of \$1,960,740, resulting in net income of \$139,260. However, the results of DD's actual operations for the first three months produced both revenues and expenses at a rate lower than projected.

DISCUSSION AND CONCLUSIONS

Title II, Article XII, Section 4(h) of the Compact provides that "[n]o certificate . . . may be transferred unless such transfer is approved by the Commission as being consistent with the public interest."

The standard of consistency with the public interest is different and less rigorous than the standards governing applications for new operating authority. Nevertheless, a finding of consistency with the public interest involves an assessment of the competitive impact of a proposed transaction and of the fitness of a transferee carrier to operate pursuant to the Compact and the Commission's rules and regulations. A transaction is consistent with the public interest if, inter alia, its end result neither adversely affects the existing competitive balance in the market place nor looses the services of an unfit carrier upon the public. See Order No. 2692, served April 3, 1985.

In this case, we find that the effect of the proposed transaction will be to maintain the status quo. Beltway consistently performed transportation pursuant to Certificate No. 25 until DD was able to assume responsibility for those operations. DD has shown during the period of temporary approval that it intends to continue Beltway's former operations including fulfillment of its contract obligations. Thus, there will be no material alteration of the existing competitive balance in the relevant charter market as a result of the proposed transaction, either through the creation of a totally new service or the extinction of an existing service.

Similarly, there is no reason to find DD unfit. While DD is new to the transportation industry, it has shown itself to be operationally capable of fulfilling service obligations imposed by Certificate No. 25. Moreover, DD appears to be financially capable of continuing to provide that service despite the loss recognized during

its first quarter of operations. It is unwise to generalize about the revenue and cost levels experienced, because of the newness of the management and non-recurring nature of some costs. We note that DD's projection for the first 12 months of operations appears to have been overly optimistic. We note also that DD has infused \$391,201 into the operations during this brief period, an indication of the corporation's access to capital and willingness to apply it. DD has evidenced a willingness to comply with the Commission's orders, rules and regulations.

For these reasons, we find the proposed transfer to be consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That the application of Beltway Limousine Service, Inc., to transfer Certificate No. 25 to DD Enterprises, Inc., is hereby approved.

2. That DD Enterprises, Inc., is hereby directed to file with the Commission within 30 days from the date of service hereof two copies of its WMATC Tariff No. 1 as required by Commission Regulation No. 55, and tariffs governing contract service.

3. That upon compliance with the conditions set forth in paragraph two, and acceptance of said tariffs by the Commission, Certificate of Public Convenience and Necessity No. 25 will be reissued to DD Enterprises, Inc.

4. That unless compliance is so made within 30 days from the date of service hereof, or such additional time as may be authorized by the Commission, the grant of approval herein shall stand denied in its entirety effective upon the expiration of the said compliance time.

5. Nothing contained herein shall be construed to relieve Beltway Limousine Service, Inc., of its obligation to file its 1985 Annual Report, and we specifically retain jurisdiction of this matter in Case No. MP-86-06.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON. WORTHY, Chairman, not participating.


WILLIAM H. MCGILVERY
Executive Director