

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2919

IN THE MATTER OF:

Served October 7, 1986

Application of MELVIN MYLES T/A)
H&M BUS SERVICE for Temporary)
Authority)

Case No. AP-86-38

By application filed September 25, 1986, Melvin Myles, a sole proprietor trading as H&M Bus Service, seeks temporary authority to transport passengers for hire over fixed routes on regular schedules. The route descriptions contained in the application are attached as an appendix to this order.

Applicant proposes to operate four inbound morning trips and four outbound afternoon trips, Monday through Friday. The proposed rates are:

<u>Between Washington, D.C., and:</u>	<u>One-way</u>	<u>Weekly Ticket</u>
Brandywine, Md.	\$3.75	\$25.00
Clinton, Md.	\$3.00	\$21.00
Camp Springs, Md.	\$2.75	\$20.00
Marlow Heights, Md.	\$2.25	\$19.00

Applicant proposes to provide the service using five 47-passenger buses manufactured between 1972 and 1976. The application indicates that applicant owns three of these vehicles and the other two would be leased from J&J Bus Service. Applicant states, "Concurrently with the filing of this application I will be filing a Certificate of Insurance, as well as a Lease of Equipment form." However, neither has been filed. In addition, applicant asserts that, "All of these vehicles have recently been inspected by the Interstate Commerce Commission, the Department of Transportation, and the State of Maryland." However, the application contains no evidence of such inspections and is silent as to the results of those inspections. We will require that applicant submit appropriately executed leases subject to Commission approval pending determination of this application. We will also require that applicant submit evidence showing the results of the most recent inspection of each of the vehicles shown on its list of equipment as well as copies of the registration documents for each vehicle. Should this application be granted, applicant will be required to submit certificate(s) of insurance showing applicant as the named insured in conformance with Commission Regulation No. 62.

To assist us in determining jurisdiction in this matter, applicant will be directed to provide copies of any transportation operating authority held by it or any person 1/ controlling, controlled by, or under common control with it, issued by the Interstate Commerce Commission or any of the Compact signatory jurisdictions. Applicant will also be required to provide copies of any applications pending before any of the above-mentioned agencies.

Owing to the fact that applicant filed on an outdated form, the application did not contain a projected statement of revenues and expenses for the proposed operation, as is our requirement. We will require such a statement, along with a reasonably current balance sheet.

The standards for temporary authority are (1) an immediate and urgent need for the service, (2) no other carrier capable of meeting such need, and (3) fitness of the applicant. 2/ With regard to such applications, the statute gives the Commission discretion to grant, deny, or set for hearing. The deficiencies of this application already discussed in this order would preclude its being granted at this time. On the other hand, applicant alludes to, and we are independently aware of, the fact that a similar service has recently been ordered stopped by the United States District Court. 3/ Accordingly, the Commission will employ its discretion to set this matter for public hearing on an expedited basis and to direct the production of certain evidence that could strengthen the application. Applicant is reminded of its statutory burden to present evidence that there exists an immediate and urgent need for the proposed service.

THEREFORE, IT IS ORDERED:

1. That Case No. AP-86-38, is hereby scheduled for public hearing to commence Friday, October 17, 1986, at 9:30 a.m., in the Hearing Room of the Washington Metropolitan Area Transit Commission, 1625 I Street, N.W., Room 314, Washington, D.C. 20006.

1/ The term "person" means any individual, firm, copartnership, corporation, company, association or joint stock association; and includes any trustee, receiver, assignee, or personal representative thereof. See Compact, Title II, Article XII, Section 2(e).

2/ See Compact, Title II, Article XII, Section 4(d)(3); Order No. 2864, served May 23, 1986; Order No. 2857, served May 12, 1986; and Order No. 1643, served January 24, 1977.

3/ WMATC v. Rodgers E. Johnson, et al., United States District Court for the District of Columbia, CA 85-3917.

2. That any person desiring to protest or otherwise be heard on this application shall appear at the above-scheduled public hearing and state its interest and grounds for determination of its status to participate by the presiding Administrative Law Judge.

3. That applicant shall file an original and four copies of a proposed contract of lease executed by the lessor and lessee in accordance with Commission Regulation No. 69, no later than Tuesday, October 14, 1986.

4. That applicant shall submit five copies of the most recent certificate of inspection for each of the vehicles described in its application, together with an affidavit that such copies are true and correct, no later than Tuesday, October 14, 1986.

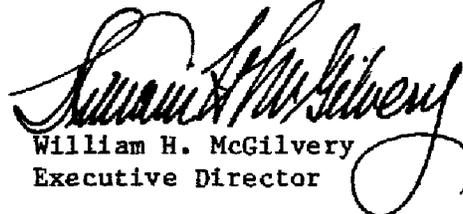
5. That applicant shall submit to the Commission no later than Tuesday, October 14, 1986, five copies of any transportation operating authority issued to it or to any person controlling, controlled by, or under common control with it, issued by the Interstate Commerce Commission or one of the Compact signatories, and any application for transportation operating authority pending before any of these entities.

6. That applicant shall submit to the Commission no later than Tuesday, October 14, 1986, five copies of a reasonably current balance sheet for applicant and of a projected statement of revenues and expenses for the first year of proposed operations.

7. That applicant shall submit to the Commission no later than Tuesday, October 14, 1986, five copies of the registration documentation for each of the vehicles listed in its application.

8. That applicant is hereby assessed the sum of \$350, preliminarily estimated to cover the expenses to be borne by applicant pursuant to the Compact, Title II, Article XII, Section 19, and is directed to deliver a certified check, cashier's check, or money order for that amount to the offices of the Commission, 1625 I Street, N.W., Room 316, Washington, D.C., no later than Tuesday, October 14, 1986.

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


William H. McGilvery
Executive Director

Passengers, between the Prince Georges County, Maryland - Charles County, Maryland boundary, and Washington, D.C., serving all intermediate points, as follows:

(1) From the Prince Georges County - Charles County boundary over U.S. Hwy 301 to junction Maryland Hwy 5, then over Maryland Hwy 5 to junction Maryland Hwy 223 to the Clinton Shopping Center in Clinton, Maryland, then over Maryland Hwy 223 to junction Maryland Hwy 5, then over Maryland Hwy 5 to junction Interstate Hwy 95, then over Interstate Hwy 95 to junction Interstate Hwy 295, then over Interstate Hwy 295 to South Capital Street, S.W., then over South Capital Street, S.W., to M Street, S.W., then over M Street, S.W., to 7th Street, S.W., then over 7th Street, S.W., to Pennsylvania Avenue, N.W., then over Pennsylvania Avenue, N.W. to 11th Street, N.W., then over 11th Street, N.W., to K Street, N.W., then over K Street, N.W., to 19th Street, N.W., then over 19th Street, N.W., to E Street, N.W., and return;

(2) From the Prince Georges County - Charles County boundary over U.S. Hwy 301 to Maryland Hwy 5, then over Maryland Hwy 5 to Brandywine Road, then over Brandywine Road to Old Branch Avenue, then over Old Branch Avenue to Manchester Drive, then over Manchester Drive to junction Maryland Hwy 5, then over Maryland Hwy 5 to Pennsylvania Avenue, S.E., then over Pennsylvania Avenue, S.E., to First Street, S.E., then over First Street, S.E. to Massachusetts Avenue, N.E., then over Massachusetts Avenue, N.E. to H Street, N.E., then over H Street, N.E. to 11th Street, N.W., then over 11th Street, N.W. to G Street, N.W., and return.