

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3043

IN THE MATTER OF:

Served July 2, 1987

Application of EUGENE GEORGE )  
Trading as SILVER STAR SIGHTSEEING )  
TOURS for an Amended Certificate of )  
Public Convenience and Necessity )

Case No. AP-87-02

By application filed February 18, 1987, Eugene George trading as Silver Star Sightseeing Tours ("Silver Star" or "applicant"), seeks to amend Certificate of Public Convenience and Necessity No. 108 to include transportation of passengers, together with mail, express and baggage in the same vehicles with passengers, in special operations (round-trip sightseeing tours), from the Econo Lodge (6800 Lee Highway, Arlington, Va.) and the Comfort Inn (1211 N. Glebe Road, Arlington, Va.) to points in the District of Columbia and Arlington County, Va., and return, restricted to service in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver) and further restricted against transportation solely between points in the Commonwealth of Virginia.

A public hearing was held on Thursday, April 23, 1987, pursuant to Order No. 2986, served March 11, 1987, and incorporated herein by reference. Applicant testified on his own behalf and presented two public witnesses. No protests were filed.

SUMMARY OF EVIDENCE

Mr. Eugene George is a sole proprietor who holds WMATC Certificate No. 108 which authorizes the following transportation:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers and their baggage in the same vehicles with passengers, in round-trip sightseeing service, from Econo-Travel Motor Hotel, 3335 Lee Highway, Arlington, Va.; Quality Inn-Governor Motel, 6650 Arlington Boulevard, Fairfax County, Va.; Econo Lodge, 421 West Broad Street, Falls Church, Va.; Stratford Motor Lodge, 300 West Broad Street, Falls Church, Va.; Travelodge Seven Corners, 6111 Arlington Boulevard, Fairfax County, Va.; and Best Western Falls Church Inn, 6633 Arlington Boulevard, Fairfax County, Va.; to points in the District of Columbia and Arlington County, Va., and return.

RESTRICTED to service in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver) and further restricted against transportation solely between points in the Commonwealth of Virginia.

Mr. George has been associated with the sightseeing business since 1946. He has held WMATC operating authority since June 1984, and presently conducts a five-hour sightseeing tour which includes stops at the United States Capitol, the White House, the Museum of American History, the Air and Space Museum, the Lincoln Memorial, the Viet Nam Memorial and a riding tour of 56 additional points of interest. Substitutions are made as necessary. Service is available year-round, seven days a week on each tour. 1/ Applicant's fare for this service is \$20 a person, and a reduced fare of \$10 is available to children under the age of 10 when accompanied by a parent. If applicant's request for expanded authority is granted, no changes will be made in his tour or rates. Applicant engaged in the operations for which authority is now sought under a grant of temporary authority issued by the Commission. During the period temporary authority was in effect, Mr. George carried an average of 12-15 persons a week on his tour.

Applicant conducts his operations in a 1979 van. Mr. George drives the vehicle and provides the tour's lecture. Tour reservations are accepted until 10 p.m. on the night preceding the tour date. Although Mr. George has no immediate plans to acquire an additional vehicle, he is prepared to purchase a second vehicle if demand dictates. Applicant engages in a regular preventive maintenance program for his vehicle. Repairs are performed as needed.

At the hearing, applicant's financial data was presented orally with the aid of an informal "scratch sheet" listing his assets and liabilities as of December 31, 1986, as well as his operating revenues and expenses for the year 1986. Pursuant to permission granted at the hearing, applicant submitted a late-filed exhibit 2/ setting forth in a more formal manner his balance sheet as of December 31, 1986, and his operating statement for the year ended on the above date. It is sufficient here to note that the formal balance sheet figures comport exactly with those presented orally at the hearing, and that the formal operating statement differs only to a relatively minor extent from the oral presentation at the hearing.

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1/ During the winter months Mr. George requires a minimum of four passengers.

2/ Applicant's described late-filed exhibit is hereby received in evidence, pursuant to the permission granted at the hearing, as applicant's Exhibit No. 1.

As of December 31, 1986, applicant's balance sheet shows assets of \$1,932, no liabilities, and proprietor's equity of \$1,932. For the year ended December 31, 1986, his operating statement shows total revenues of \$25,000, total expenses of \$15,925, and a net operating income of \$9,075. A projected operating statement for the first year of the proposed operation estimates revenues therefrom of \$9,000 and operating expenses of \$4,750.

Ms. Mary McCamley testified in support of the application as a representative of the Comfort Inn, 1211 North Glebe Road, Arlington, Va. She owns and operates the White Dove Gift Shop which is located in the hotel. In addition to running the gift shop, Ms. McCamley provides hotel guests with sightseeing information. She receives requests for such information daily. No sightseeing carriers currently serve the Comfort Inn. Tickets for applicant's operations under temporary authority were sold by Ms. McCamley in her gift shop. During that time, as many as ten tickets a week were sold. Ms. McCamley stated that various patrons of applicant's tour informed her in person and by letter that the tour was one of the best they had ever taken. She has never received any complaints regarding applicant's service. The witness estimated that an average of six persons a week will use applicant's services during the tourist season (March through August). If this application were granted, Ms. McCamley would sell Silver Star tickets and place brochures describing the Silver Star tour in her gift shop.

Mr. Sean Sullivan testified in support of the application on behalf of the Econo Lodge, 6800 Lee Highway, Arlington, Va. As front desk clerk for the hotel, Mr. Sullivan is responsible for checking hotel guests in and out. He stated that no carrier currently provides door-to-door sightseeing services to the Econo Lodge. He receives three to five requests a day for sightseeing services a day. The witness has only been employed by the Econo Lodge for a month and a half and makes his estimate based on his time at the hotel. He has not worked during the height of the tourist season; consequently peak season estimates are not included. Because of the unavailability of door-to-door sightseeing service, Mr. Sullivan directs hotel patrons to take the subway, which is approximately four blocks away, to designated sightseeing pick-up points. Mr. Sullivan feels that applicant's service would benefit the patrons of the Econo Lodge. If this application were granted, the Econo Lodge would sell Silver Star tickets and place brochures describing the Silver Star tour in the hotel lobby.

#### DISCUSSION AND CONCLUSIONS

In determining whether to grant or expand a certificate of public convenience and necessity, we look to the standards enunciated at Title II, Article XII, Section 4(b) of the Compact which provides that:

. . . the Commission shall issue a certificate . . . if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity . . . .

Based on a review of the record we find applicant fit, willing and able to perform the proposed service and to conform to the Compact and the Commission's rules, regulations and requirements thereunder. Applicant is an experienced sightseeing lecturer and driver. He has been in the sightseeing business for 30 years and is a WMATC-certificated carrier. Applicant follows a regular maintenance program. Financial data introduced into the record by the applicant indicates adequate financing to sustain the proposed operations.

We now turn to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. In determining whether an applicant has met its burden, the Commission relies on the test enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]). The Pan-American test consists of three parts:

- (1) Whether the new operation or service will serve a useful public purpose responsive to a public demand or need;
- (2) Whether this purpose can and will be served as well by existing lines or carriers; and
- (3) Whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

Applicant produced a supporting witness from each of the hotels that he seeks to add to his existing service. Based on the testimony of these witnesses, we find that applicant has met his burden of proving that the proposed operation will serve a useful public purpose responsive to public need.

As the owner and operator of the White Dove Gift Shop located in the Comfort Inn, Ms. McCamley comes into daily contact with hotel guests. There is no available door-to-door sightseeing service at the Comfort Inn. Hotel patrons must, therefore, depend on municipal transportation or personal vehicles in order to see the sites.

Ms. McCamley sold tickets and displayed brochures for applicant's operations under temporary authority and would be willing to continue selling tickets for the applicant. She estimates that six persons a week will use applicant's services. The witness stated that guests who took the tour were pleased with the service. She believes that there is a need for applicant's service and views the availability of door-to-door sightseeing service as an extra amenity that the hotel can offer its guests.

Mr. Sean Sullivan testified in support of the application as a representative of the Econo Lodge. As front desk clerk, Mr. Sullivan has daily interaction with hotel guests and receives frequent requests for sightseeing service. The unavailability of door-to-door sightseeing service leads Mr. Sullivan to direct hotel patrons to the subway in order to gain access to sightseeing services. The witness estimates that he receives three to five requests a day for such services. The witness believes that Mr. George's service would benefit the hotel and its guests. The hotel would sell tickets for applicant's service and place brochures describing such service in its lobby.

The record indicates that Mr. George offers a tour that reflects his seasoned knowledge of tourist attractions. His proposed operations would serve two establishments which are not presently served by existing carriers. In making door-to-door sightseeing available to the Comfort Inn and the Econo Lodge, Mr. George would be providing a benefit to these establishments and their guests. Since no protests were entered, we conclude that applicant's proposed service will not materially affect the operations of existing carriers.

THEREFORE, IT IS ORDERED:

1. That Eugene George trading as Silver Star Sightseeing Tours is conditionally granted authority to transport passengers as follows, contingent upon timely compliance with the terms of this order:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers and their baggage in the same vehicles with passengers, in round-trip sightseeing service, from Econo Lodge, 6800 Lee Highway, Aflington, Va., and Comfort Inn, 1211 N. Glebe Road, Arlington, Va., to points in the District of Columbia and Arlington County, Va., and return.

RESTRICTED to service in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver) and further restricted against transportation solely within the Commonwealth of Virginia.

2. That Eugene George trading as Silver Star Sightseeing Tours is hereby directed to file two copies of his WMATC Tariff No. 2 as proposed in his application.

3. That unless Eugene George trading as Silver Star Sightseeing Tours complies with the requirements of the preceding paragraph within 30 days from the service date of this order, or such additional time as the Commission may grant or allow, the grant of authority herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

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

  
William H. McGilvery  
Executive Director