

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3044

IN THE MATTER OF:

Served July 2, 1987

Application of ON-TIME AMERICAN )  
TRANSPORT, INC., for a Certificate )  
of Public Convenience and Necessity )  
to Conduct Charter and Special )  
Operations )

Case No. AP-87-06

By application filed March 20, 1987, On-Time American Transport, Inc. ("On-Time" or "applicant"), seeks authority to transport passengers, together with mail, express, and baggage in the same vehicle as passengers, in charter operations, between points in the Metropolitan District within a 30-mile radius of the U.S. Capitol; and in special operations (sightseeing tours) from points in the Metropolitan District to Mount Vernon, Va.; Alexandria, Va.; Arlington National Cemetery, Va.; the District of Columbia; and return. 1/

PROCEDURAL HISTORY

A public hearing on the matter was held on Tuesday, May 12, 1987, pursuant to Order No. 2991, served April 1, 1987, and incorporated herein by reference. Two company witnesses and four public witnesses testified on behalf of the applicant. The application was protested by Webb Tours, Inc.; 2/ Richard Butler; V.I.P. Tours; and Bill Appell trading as Personal Pace Tours, holders of WMATC Certificate Nos. 33, 84, 85, and 130, respectively. Webb Tours, Inc., withdrew its protest on May 7, 1987, based upon applicant's oral agreement to restrict its application to vehicles with a manufacturer's designed seating capacity of 15 persons or less, including the driver.

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1/ To the extent that this application could be interpreted to include transportation between points solely in Virginia, it was dismissed by Order No. 2991 pursuant to the Compact, Title II, Article XII, Section 1(b).

2/ The protest submitted on behalf of WMATC Certificate holder No. 33 was filed by Spirit of '76 Tours, Inc. The only corporate entity authorized to engage in operations under that certificate is Webb Tours, Inc. All references to WMATC Carrier No. 33 shall refer to Webb Tours, Inc.

Pursuant to applicant's request, the application was amended at the hearing to reflect the above-noted limitation on equipment size. V.I.P. and Butler appeared at the hearing but withdrew their protests when the Administrative Law Judge accepted an amendment restricting the special operations portion of the application against origination of sightseeing tours on the National Mall, The Ellipse, or the Days Inn-Capital Centre.

During the course of the hearing, applicant made an additional amendment to its application by withdrawing, with the permission of the Administrative Law Judge, the special operations portion of the application in its entirety. 3/

#### SUMMARY OF THE EVIDENCE

Mr. Girma Tekleab and Mr. Teshome Tadesse are joint owners of On-Time American Transport, Inc. Mr. Tekleab is the secretary/treasurer of the corporation. He has studied transportation planning at the University of the District of Columbia. In addition, he has had ten years' experience driving a limousine and a taxicab, and is a licensed tour guide. Mr. Tekleab speaks two Ethiopian languages and some Arabic in addition to English. As secretary/treasurer of the corporation, Mr. Tekleab is responsible for bookkeeping, accounting, and corresponding.

Mr. Teshome Tadesse is the president of the corporation and is responsible for day-to-day management of the company. He has been a taxi driver since 1980. Mr. Tadesse is a licensed tour guide and speaks Amharic, the official Ethiopian language, in addition to English and French. The witness stated that On-Time expects to generate 10 percent of its income from the Ethiopian community. As president of the corporation, his duties include presiding over shareholders and board of directors meetings. He is also responsible for the hiring and firing of employees.

In addition to their respective management responsibilities, each will serve as a driver-lecturer for the proposed operation. Mr. Tekleab will be a full-time driver and Mr. Tadesse part-time at first. A beeper system will be employed to reach Mr. Tadesse if both drivers are needed at the same time.

Applicant plans to offer five tours. Its four-hour "Van and Foot Tour" includes visits to the interior of the Air and Space Museum and the Capitol or the White House (depending on the availability of the White House) plus a riding tour of the Washington Monument, the

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3/ In light of the withdrawal of the special operations portion of the application the evidence put forth at the hearing will be evaluated as it pertains to proposed charter operations only.

Supreme Court, the Library of Congress, the "Pennsylvania Avenue Corridor," the Bureau of Printing and Engraving, the Jefferson Memorial, the Tidal Basin, the Lincoln Memorial, and the Vietnam Veterans Memorial. On-Time's "Observation Tour" is also four hours. The tour visits the same sites as the Van and Foot Tour plus the Kennedy Center, the Watergate Complex, Georgetown, and the National Cathedral. No stops are made. Applicant's third tour is a five-hour tour that includes sites visited in the Van and Foot Tour plus a stop at Arlington National Cemetery. Applicant's fourth tour is its "Six-hour Mount Vernon and Arlington Cemetery Tour," which makes stops at Mount Vernon, Arlington National Cemetery, (Old Town) Alexandria, and a lunch stop. The fifth tour lasts ten hours and includes the sites in the Mount Vernon and Arlington National Cemetery Tour, a portion of the Van and Foot Tour, and observations of Embassy Row, the Naval Observatory, the Kennedy Center, the Watergate Complex, Georgetown, the Washington National Cathedral, and the Iwo Jima Memorial. Where tours include lunch stops, the price of the meal is not included. Special requests can be accommodated. If requested in advance, applicant would provide bi-lingual tour guides or taped tours in languages other than English at no additional charge to the chartering party.

Applicant proposes to conduct its operations in a 1986 15-passenger van and a 1983 eight-passenger van. Both vehicles are equipped with radio, public address system, and tape deck to be used for playing taped commentary during sightseeing tours. The vans are owned individually by Mr. Tekleab and Mr. Tadesse and will be leased to On-Time if this application is granted. Both vehicles will be monitored according to a maintenance routine which includes an oil change every 1,500 miles, lubrication, brake check, and tune up every 3,000 miles. Mr. Tekleab will follow the manufacturer's guide for maintenance of his 1986 van. Mr. Tadesse plans to follow the same schedule for his vehicle. The vans will be garaged in Arlington where repairs will also be done. The vehicles will be washed twice a week and vacuumed daily. The oil, water, battery, windshield water, brakes, and tires will be checked every day.

On-Time submitted a balance sheet dated March 18, 1987, indicating current and other assets of \$7,826.73 and capital stock of \$7,826.73. No liabilities were listed. A projected operating statement for the first 12 months of WMATC operations estimates total operating income at \$82,944 with operating expenses for the same period projected at \$66,740. Net income after allowance for depreciation and taxes is projected at \$8,605.46.

Mr. Alvaro Gaviria, owner of Fiesta Travel Service, testified in support of the applicant. Fiesta Travel specializes in service to the Hispanic community in Washington and visitors from South and Central America. Fiesta Travel's clientele consists of tourists as well as government officials and diplomats. The witness requires

charter transportation including sightseeing for 15-20 persons a week. Mr. Gaviria plans to use applicant's service two or three times a week for transportation to and from Latin American embassies, the World Bank, hotels, and meeting places. Most of Mr. Gaviria's clients need bilingual services. Because of this special need the witness has difficulty in securing appropriate transportation. Mr. Gaviria is often forced to arrange his clients' schedules around the carriers' schedules and has had to postpone tours because adequate bilingual transportation services have been unavailable.

Mr. Gaviria is looking for the personalized service of a small company. The witness is familiar with Mr. Tadesse's services as a taxicab driver. He has employed Mr. Tadesse's services for small scale trips over the past two to three years when other companies were unable to provide service. He has not received any complaints regarding Mr. Tadesse's service as a taxicab driver and feels that he has been courteous to the clients of Fiesta Travel.

Mr. Lemmaw Sebhatu, concierge at the Radison Mark Plaza Hotel in Alexandria, Va., testified in support of the application. The witness attends to the general needs of hotel guests including transportation. The hotel is located approximately eight miles from the District of Columbia in a somewhat secluded area outside the commercial section of Alexandria. This location creates problems when hotel guests seek van transportation. Hotel guests require transportation to points in the District of Columbia principally to restaurants in the so-called downtown and Chinatown areas. The witness stated that applicant's flexible hours would be beneficial to hotel guests. Also, applicant's guaranteed prompt return service to the hotel would eliminate problems presently experienced by guests in obtaining return transportation. Mr. Sebhatu estimates that he would recommend applicant's services two to three times a month.

Ms. Catherine Kim is an assistant manager of Japan Travelers Service, Inc. ("JTS"), and testified in support of the application on behalf of that carrier. Ms. Kim's responsibilities include securing ground transportation for groups coming to the United States from Japan. JTS holds WMATC Certificate No. 74 and currently operates a 21-passenger minibus and limousines. The company requires transportation in vans for groups ranging in size from five to twelve, too many for comfortable seating in the company's limousines and too few for use of its 21-passenger minibus. The company requires charter transportation for sightseeing, airport transfers, and business-related purposes. JTS will supply its own step-on guide if needed.

The final witness in support of the application was Abdalla O. Nasir. Mr. Nasir appeared on behalf of Sahara Limousine Service where he is employed as a manager. Sahara Limousine operates several six-passenger vehicles. Mr. Nasir receives numerous requests for charter transportation in larger vehicles. He accommodates these

requests by chartering 14-passenger and 21-passenger vehicles. Sahara Limousine transports many foreign visitors who need transportation to embassies, government activities, meetings, and shops. The witness has used Mr. Tekleab as a driver for his limousines and finds that he is very dependable, knowledgeable, and prompt. Mr. Nasir has been dissatisfied with existing van services because of tardiness and unprofessional attire of the drivers. The witness seeks a van service with drivers who can effectively interact and respond to the needs of his clients. Mr. Nasir believes that applicant's service will meet that need and estimates that he will use applicant's services at least two or three times a week. He may also have occasion to refer applicant's services to other limousine companies.

#### DISCUSSION AND CONCLUSIONS

In determining whether to grant 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. The co-owners of On-Time are both experienced drivers who are familiar with the Metropolitan District and the points of interest therein. Applicant will follow a regular maintenance routine for its vehicles, including daily inspections and a preventive maintenance program. Applicant's balance sheet indicates sufficient funds to initiate WMATC operations. We have examined the projected income statement, and we do not believe that the amendment deleting special operations will have a significant impact on the projections already submitted. Both owners are familiar with the Compact and the Commission's rules and regulations and are willing to comply with them.

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 four public support witnesses who represented travel agencies, a hotel, and a limousine service. Based on the testimony of these witnesses we find that there is a public need for the proposed operations.

As the owner of Fiesta Travel Service, Mr. Alvaro Gaviria has extensive contact with people from South and Central America. He is interested in finding a personalized transportation service that offers bilingual services and can respond on short notice. Mr. Gaviria finds that there is a shortage of such carriers, and this situation has resulted in postponement or cancellation of service to Fiesta's clients. Mr. Gaviria estimates that he will use applicant's services two to three times a week. He has used and has been pleased with Mr. Tadesse's taxicab services.

Mr. Sebhatu's position as concierge at the Radisson Mark Plaza Hotel puts him in touch with hotel patrons who seek transportation. He receives numerous requests for van service. He has difficulty, however, in securing needed service because of the hotel's location. Mr. Sebhatu indicated that hotel guests who wish to travel out of the vicinity of the hotel to dine have difficulty finding transportation back to the hotel. He suggested that applicant's service could be used as a guaranteed return to the hotel from these outings. Mr. Sebhatu estimates that he will use applicant's services two to three times a month.

Ms. Kim, an assistant manager for Japan Travelers Service, arranges transportation for Japanese visitors. JTS is a WMATC certificated carrier that operates a 21-passenger minibus in addition to several limousines. Ms. Kim needs additional transportation services to transport groups of 5-12. She estimates that JTS will use applicant's services a couple of times a week.

The representative of Sahara Limousine service often receives requests for service in 14-passenger vehicles from clients who need to be transported to a variety of places throughout the Metropolitan District. A large part of its clientele is comprised of visitors from outside the United States. Mr. Nasir believes that the applicant would be attentive to the needs of foreign visitors and their special

shopping interests. Mr. Tekleab has driven limousines for the witness and has served in a favorable manner. Mr. Nasir makes van referrals to other limousine agencies and expects to use applicant's service at least two to three times a week.

The record indicates that applicant will offer the public a service that caters to the special needs of the Metropolitan District's many foreign visitors. Applicant's use of foreign language taped commentary and/or step-on guides, coupled with the bilingual skills of its officers, will make sightseeing and travel throughout the area more enjoyable for these persons. Applicant's flexible hours of service will also allow greater ease in planning itineraries.

On-Time's amendments to the application alleviated the concern of existing carriers that the proposed service would endanger or impair their operations. All of the protestants, with the exception of one, withdrew their protests when On-Time's restrictive amendments were allowed by the Administrative Law Judge. Taking official notice of WMATC Certificate No. 130, we find that the remaining protestant, Bill Appell trading as Personal Pace Tours, is authorized to engage in special operations only and would not be adversely affected by any charter authority that may be granted to applicants.

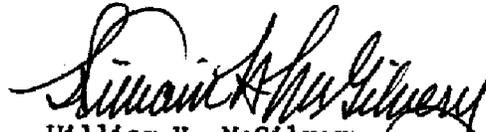
THEREFORE, IT IS ORDERED:

1. That On-Time American Transport, Inc., is conditionally granted authority, contingent upon compliance with the terms of this order, to transport passengers together with mail, express, and baggage in the same vehicle as passengers, in charter operations between points in the Metropolitan District that lie within a 30-mile radius of the U.S. Capitol; restricted to transportation 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 On-Time American Transport, Inc., is hereby directed to file the following: (1) two copies of its WMATC Tariff No. 1, revised to reflect amendments made to the application; (2) an equipment list specifying make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (3) a certificate of insurance in accordance with Regulation No. 62; (4) an affidavit of identification of vehicles pursuant to Regulation No. 67, for which purpose WMATC No. 133 is hereby assigned; (5) leases of equipment pursuant to Regulation No. 69; and (6) applicant's complete mailing address and telephone number within the Metropolitan District.

3. That unless On-Time American Transport, Inc., 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 contained herein shall be void in its entirety effective upon the expiration of the said compliance time.

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

  
William H. McGilvery  
Executive Director