

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3100

IN THE MATTER OF:

Served December 4, 1987

Application of VIRGINIA COACH)
COMPANY for a Certificate of Public)
Convenience and Necessity to)
Conduct Charter Operations Limited)
to One Account)

Case No. AP-87-25

By application filed September 2, 1987, Virginia Coach Company ("Virginia Coach" or "applicant"), seeks a certificate of public convenience and necessity to transport passengers, together with baggage in the same vehicle as passengers, in charter operations between points in the Metropolitan District for the account of The Convention Store, Inc., of Washington, D.C., restricted against transportation of passengers solely within the Commonwealth of Virginia.

Pursuant to Order No. 3070, served September 16, 1987, and incorporated herein by reference, a public hearing was held on October 22, 1987. A company witness and a representative from The Convention Store testified on behalf of the applicant. No protests were filed within the time set therefor. On September 25, 1987, applicant filed a Motion For Extension of Time for publication of notice. Evidence was submitted showing that notice of the substance of the application had been published in a newspaper of general circulation on September 28, 1987, but that applicant had experienced difficulties in obtaining an affidavit of such publication from the newspaper. For good cause shown, the motion was granted by the Administrative Law Judge at hearing. The affidavit of publication was filed with the Commission on October 27, 1987.

SUMMARY OF EVIDENCE

Mr. James M. Counselman testified on behalf of the applicant at the hearing. Virginia Coach Company has been an Interstate Commerce Commission passenger carrier for several years. As the vice-president of Virginia Coach, Mr. Counselman is responsible for daily operations. He has worked in the transportation field for 20 years.

As previously mentioned, applicant seeks charter authority to transport passengers for the account of The Convention Store. Applicant expects to provide transportation for shuttle movements and local sightseeing between points in the Metropolitan District. Applicant's proposed tariff lists a charge of \$40 an hour with an eight-hour minimum. A rate of \$45 an hour with a four-hour minimum

would be available for lectured sightseeing. Mr. Counselman stated that a provision giving a 10 percent discount to The Convention Store will be added to the tariff that was submitted as a part of this application. Transportation operations will be conducted using eight coaches each seating 47-49 passengers. Applicant also plans to use two 21-passenger vehicles. Applicant's vehicles are maintained in its own garage and undergo a complete maintenance check every 6,000 miles. It also has a regular maintenance routine which encompasses a check of each vehicle's brakes, lights, etc., on a daily basis. Applicant employs 14 drivers and, if needed, additional drivers would be employed. Applicant's drivers were recent participants in a safety program conducted by a qualified driver instructor. Drivers are kept abreast of all applicable safety regulations. They have been given driver handbooks and participate in periodic retraining sessions. Applicant's vice-president stated that he is familiar with the Compact and the Commission's rules and regulations and is willing to abide by them.

Applicant submitted a balance sheet for December 31, 1986, which lists current assets of \$11,580, with fixed and other assets, after allowance for depreciation, of \$336,220. Current and long-term liabilities of \$434,985 are also listed. Stockholder's equity shows \$1,000 in common stock with a deficit to retained earnings of \$88,185. Applicant's income statement for the year ended December 31, 1986, lists operating revenues of \$641,420 and operating expenses of \$624,956 (including \$109,171 of depreciation expense). Applicant, as directed by Order No. 3070, served September 16, 1987, filed corrected data relating to revenues and revenue deductions projected for the first year of WMATC operations. This projection includes expected revenue of \$40,000 from operations to be conducted on behalf of The Convention Store and operating expenses of \$25,871, and would result in a net profit of \$14,129.

Ms. Charlotte Timms testified on behalf of the applicant as the representative of The Convention Store. She is the vice-president in charge of that company's transportation division. The Convention Store makes transportation arrangements for large groups that hold meetings at the Convention Center in Washington, D.C. Such transportation arrangements generally include shuttle service between the Convention Center and hotels located in the Metropolitan District. Transportation is also provided to area restaurants and other locations requested by the group. Ms. Timms estimates that The Convention Store will need applicant's services at least twice a month. The Convention Store may on some occasions need as many as 90 coaches a day. The Convention Store has used the services of The Airport Connection, Inc., Greyhound, and Shaw Bus Service, Inc., and intends to supplement the transportation provided by these carriers with applicant's services if the authority is granted.

The Convention Store has used applicant's services for non-WMATC operations and has found them to be excellent. The witness testified that applicant's buses have been clean, and well-maintained, and the service pleasant and courteous.

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 capable of providing the proposed service and willing to conform to the Compact and the Commission's rules and regulations. Applicant is an experienced passenger-carrier. It emphasizes the importance of safety in its operations by engaging in both daily and regularly scheduled preventive maintenance routines. Its drivers have also undergone extensive safety training. Although thinly capitalized, we believe that the revenues generated as a result of WMATC operations should help to improve applicant's current financial position.

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 of proof, 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 requests authority to provide transportation service for one account, The Convention Store. A representative described the purpose of The Convention Store and outlined its significant transportation needs. It is evident from Ms. Timms' testimony that additional transportation service for the account of The Convention Store would be responsive to existing public demand and need. The Convention Store is presently using the services of existing carriers but finds that they are not always able to fulfill its needs. This

situation therefore, prompted the search for an additional carrier. Based on Ms. Timms' testimony and evidence of record, we find that applicant has met its burden of proving that the proposed operations will serve a useful public purpose responsive to public need and demand. 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 Virginia Coach Company is hereby conditionally granted authority, contingent upon compliance with the requirements of this Order, to transport passengers as follows:

IRREGULAR ROUTES:

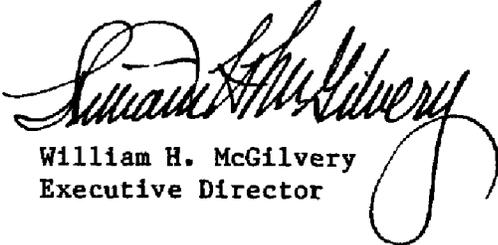
CHARTER OPERATIONS, transporting passengers together with baggage in the same vehicle as passengers between points in the Metropolitan District,

RESTRICTED to service performed for the account of The Convention Store, Inc., of Washington, D.C. and further restricted against transportation of passengers solely between points in the Commonwealth of Virginia.

2. That Virginia Coach Company is hereby directed to file with the Commission the following: (a) two copies of its WMATC Tariff No. 1 as amended, (b) an equipment list specifying make, year, model, serial number, seating capacity, and license plate number and jurisdiction for each vehicle to be used in WMATC operations, (c) equipment leases in accordance with Commission Regulation No. 69 covering all vehicles not owned by applicant, (d) a certificate of insurance in accordance with Regulation No. 62, and (e) an affidavit of identification of vehicles pursuant to Regulation No. 67 for which purpose WMATC No. 136 is hereby assigned.

3. That unless Virginia Coach Company 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 direct or allow, the grant of authority herein shall be void, and the application shall stand denied 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