

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3103

IN THE MATTER OF:

Served December 10, 1987

Application of AMERICAN COACH	)	Case No. CP-87-14
LINES, INC., for Special	)	
Authorization to Perform Charter	)	
Operations Pursuant to Contract--	)	
Close-Up Foundation	)	

By application filed December 7, 1987, American Coach Lines, Inc., ("ACL" or "applicant") seeks authorization to conduct charter operations pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1 under contract with Close-Up Foundation transporting high school students and teachers participating in educational tour programs arranged for and conducted by Close-Up, together with baggage in the same vehicles as passengers, between points in the Metropolitan District. \*/

The contract period extends from January 11, 1988, through July 31, 1988. Under the terms of the contract applicant must provide between four and six 47-passenger motor coaches per day, each equipped with a working public address system, two-way radio communications system, and reclining seats. Use of school buses is prohibited. The use of leased coaches is also prohibited except where approved in writing by Close-Up. American Coach submitted an equipment list which designated coaches that may be used to perform service under the contract. Over half of the vehicles listed are leased. Applicant will therefore be required to submit written permission from Close-Up for use of leased vehicles as well as lease forms as required by Commission Regulation No. 69.

Applicant is a District of Columbia corporation. Its president, Mr. Frank Sherman, Jr., states that ACL is experienced in

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\*/ The application specifically requests authority to perform service ". . . to and from National Airport and hotels located in the Metropolitan District and daily tours between such hotels and such points and places as the White House, Washington Monument, Bureau of Engraving and Print, Smithsonian, etc." If the Commission has misstated the authority which applicant seeks, it should so inform the Commission within ten days of the service date of this order.

providing charter service for preformed groups as required by the Close-Up contract. Applicant's president further states that he is familiar with the Compact and the Commission's rules, regulations, and requirements and will comply therewith with respect to operations performed under the instant contract. ACL states that "to the knowledge of the applicant" it is not being investigated and has not been found unfit by the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission, or the United States Department of Transportation.

However, applicant does acknowledge suspension of its WMATC Certificate No. 1, as a result of this Commission's finding it in violation of specific Compact provisions and Commission rules and regulations. See Order No. 3079, served October 9, 1987. A Petition for Reconsideration was filed by ACL and subsequently denied by Order No. 3099, served December 4, 1987. Applicant states that it intends to appeal the aforementioned orders to the appropriate court and argues that, therefore, the Commission's findings should not be relied on as a basis for denying the authority sought under Special Certificate of Public Convenience and Necessity No. 1. It must be noted that Order No. 3079 is a final order of the Commission. Applicant having exercised its right to seek reconsideration may exercise its right to appeal, but the mere filing of an appeal--or lack thereof--has no bearing on a determination of the matter at hand.

Applicant's balance sheet dated May 31, 1987, shows current assets of \$1,131,839.53 with fixed assets minus depreciation of \$684,291.67; current liabilities are listed at \$986,572.66, long-term liabilities at \$673,301.65 with stockholder's equity of \$156,256.89. Applicant also submitted an income statement covering the five months ended May 31, 1987. Inasmuch as both the balance sheet and income statement are over six months old, ACL will be required to submit updated financials. Its income statement should cover approximately one year. Applicant submitted income projections for its entire operations for an unspecified time period. The Commission's application requires submission of pro forma data for operations proposed under the contract only, including allocable fixed expenses. Applicant will be required to provide a statement of revenue and revenue deduction projections consistent with this requirement.

William A. Eliason, director of operations for Close-Up, submitted a notarized statement dated December 7, 1987. In support of the application, Mr. Eliason states that Close-Up is a non-profit educational entity, that he has investigated ACL's qualifications and is satisfied that ACL has the necessary buses and personnel to provide the proposed service.

Inasmuch as a contract has been executed for transportation of students and their teachers by a school for a period in excess of 181 days, the application appears amendable to processing under Commission

Regulation No. 70. See Order No. 2004, served June 4, 1979. As articulated in Order No. 2004, the fitness of each individual carrier authorized to operate under Special Certificate of Public Convenience and Necessity No. 1 is an issue. Regulation No. 70-06 provides that the Executive Director or his designee shall review the pleadings and make a determination of each applicant's fitness. Prior to such determination, notice of this application, must be published and opportunity given for the filing of protests. Protests if any, must be written, sworn and notarized and must contain all evidence and argument upon which the protestant would rely.

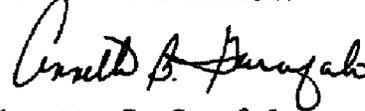
THEREFORE, IT IS ORDERED:

1. That American Coach Lines, Inc., is hereby directed to publish once in a newspaper of general circulation in the Metropolitan District notice of this application in the form prescribed by the staff of the Commission no later than Monday, December 14, 1987.

2. That American Coach Lines, Inc., is hereby directed to file with the Commission no later than Monday, December 28, 1987, the following: (a) an affidavit of publication; (b) contract(s) of lease in conformance with Commission Regulation No. 69 and written permission from Close-Up to use leased vehicles in the proposed operations as described in this Order; (c) an updated balance sheet and operating statement; and (d) a schedule of revenue and revenue deductions pertaining to the proposed service.

3. That any person desiring to protest this application shall file a notarized protest in conformance with Commission Regulation No. 70-06 at the office of the Commission 1625 I Street, N.W., Suite 316, Washington, D.C. 20006, no later than Thursday, December 24, 1987, and shall simultaneously serve a copy of such protest on Leonard A. Jaskiewicz, Esquire, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036.

FOR THE COMMISSION:



Annette B. Garofalo  
Acting Executive Director

