

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 3179

IN THE MATTER OF:

Served June 15, 1988

Application of MEDICO)
TRANSPORTATION SERVICES, INC., to)
Transfer Certificate No. 51 to)
HENRY L. EPPS, JR.)

Case No. AP-88-20

MEDICO TRANSPORTATION SERVICES, INC.,)
Suspension and Investigation of)
Revocation of Certificate No. 51)

Case No. MP-88-03

By application filed May 26, 1988, Medico Transportation Services, Inc. ("transferor"), seeks Commission approval to transfer, by sale, its Certificate of Public Convenience and Necessity No. 51 to Henry L. Epps, Jr. ("transferee"). Certificate No. 51 contains the following authority:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting persons confined to wheelchairs:

Between medical treatment facilities located inside the Capital Beltway, on the one hand, and, on the other, points inside the Capital Beltway.

RESTRICTIONS: The service authorized herein is restricted to the transportation of non-ambulatory participants in the Medicaid program of the District of Columbia, and is further restricted to transportation in van-type vehicles specially equipped with ramps and mechanical devices for securing wheelchairs in transit.

The transfer application includes a bilateral contract executed May 18, 1988, whereby transferor agrees to sell Certificate No. 51 to transferee for \$1,250. The contract includes a covenant requiring transferor not to compete with transferee within a 50 mile radius of the District of Columbia for a period of two years. The agreement is contingent upon approval of the transfer by the Commission, and upon acceptance of the transferee as a medicaid carrier by the District of Columbia Office of Health Care Financing. The contract also provides that "[t]he Seller shall make application on or before May 9, 1988, to

the WMATC for transfer of the Certificate to Purchaser"

Because transferor's application was filed with the Commission on May 25, 1988, several weeks after the date specified in the contract, transferor and transferee will be required to address the issue of whether the contract remains valid.

With the application, transferee submitted a statement of net worth as of May 23, 1988, which reflects \$60,000 in total assets including \$10,000 in cash and \$50,000 real property. Liabilities in the form of a \$33,000 long-term note (mortgage) and equity of \$27,000 are also listed.

The transfer is governed by Title II, Article XII, Section 4(h) of the Compact which provides:

No certificate under this section may be transferred unless such transfer is approved by the Commission as being consistent with the public interest.

Medico Transportation Services, Inc., is currently the subject of a Commission investigation, Case No. MP-88-03, Medico Transportation Services, Inc., Suspension and Investigation of Revocation of Certificate No. 51. By Order No. 3127, served February 29, 1988, and incorporated herein by reference, the Commission suspended Certificate of Public Convenience and Necessity No. 51 and directed Medico to comply with Title II, Article XII, Section 9(a) of the Compact and Commission Regulation No. 62 concerning security for the protection of the public. Medico was also directed to file an appropriate certificate of insurance or submit other evidence in writing and under oath to show good cause why Certificate No. 51 should not be revoked.

At the request of Medico Transportation Services, Inc., Case No. MP-88-03 was scheduled for public hearing. The hearing was subsequently cancelled by Order No. 3168, served May 12, 1988, pending further order of the Commission. The cancellation was based on Medico's representation that a transfer application would be filed with the Commission that would have a direct effect on the outcome of the investigation. Order No. 3168 further provided that upon receipt of the transfer application both cases would be consolidated and set for hearing. Notice of the application will be required and a date established for the filing of protests.

THEREFORE, IT IS ORDERED:

1. That Case Nos. AP-88-20 and MP-88-03 are hereby consolidated.

2. That Case Nos. AP-88-20 and MP-88-03 are hereby scheduled for public hearing to commence Thursday, July 21, 1988, at 9:30 a.m. in the Hearing Room of the Commission, Room 314, 1625 I Street, N.W., Washington, D.C. 20006.

3. That Henry L. Epps, Jr., is hereby made a co-applicant in Case No. AP-88-20.

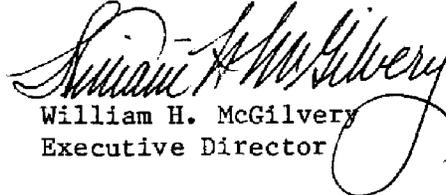
4. That co-applicants are hereby directed to publish once in a newspaper of general circulation in the Metropolitan District, notice of the application and hearing thereon in the form prescribed by Commission staff no later than Monday, June 27, 1988, and to file with the Commission an affidavit of such publication.

5. That any person desiring to protest shall file a protest in accordance with Commission Rule No. 14 or any person desiring to be heard on these matters shall so notify the Commission in writing no later than Monday, July 11, 1988, and shall simultaneously serve a copy of such protest or notice on Joel C. Weingarten, Esq., 51 Monroe Street, Suite 1500, Rockville, Md. 20850 and Henry L. Epps, Jr., 115 Rhode Island Avenue, N.E., Washington, D.C. 20002.

6. That co-applicants are hereby assessed \$450, pursuant to Title II, Article XII, Section 19 of the Compact, and are directed to deliver said sum to the offices of the Commission, Suite 316, 1625 I Street, N.W., Washington, D.C. 20006, no later than Monday, July 11, 1988.

7. That Henry L. Epps, Jr., is hereby directed to file no later than Monday, July 11, 1988, an original and four copies of a proposed tariff and an equipment list indicating make, model, license plate number, and vehicle identification number for each vehicle to be operated in the Metropolitan District.

FOR THE COMMISSION:


William H. McGilvery
Executive Director