

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3228

IN THE MATTER OF:

Served September 12, 1988

Application of JOSEPH C. SMITH)
Trading as SMITH CHARTER BUS)
SERVICE for Special Authorization)
to Conduct Charter Operations)
Pursuant to Contract with)
Washington Hospital Center)
Corporation)

Case No. CP-88-07

By application filed August 12, 1988, Joseph C. Smith trading as Smith Charter Bus Service (applicant) seeks authority pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1 to transport employees of Washington Hospital Center Corporation (Hospital) in charter operations under contract with the Hospital between the Hospital's bus entrance located at 110 Irving Street, N.W., and the Brookland Metro Station on Michigan Avenue, N.E., both points in Washington, DC.

Order No. 3217, served August 17, 1988, generally describes the evidence submitted with the application, and that order is incorporated herein by reference. The Commission required publication of notice of the application and the filing of an affidavit of publication. The order further required that applicant complete the application and resolve certain ambiguities by filing the following items: (a) his most recent balance sheet and operating statement and a projection of revenue and revenue deductions (including allocable fixed expenses) to be generated by the proposed operations; (b) a complete list of applicant's revenue vehicles showing make, model, year, serial number, and passenger seating capacity (including driver) of each vehicle, with a designation of which vehicles will be used for rendering the proposed service including evidence showing that all of applicant's revenue vehicles have been licensed, inspected, and approved for transportation-for-hire operations by the District of Columbia, Maryland, or Virginia; and (c) a statement comprised of the following: (i) evidence that applicant is fit to perform the proposed service, (ii) certification that applicant is familiar with the terms of the Compact and the Commission's rules, regulations, and requirements, and will comply therewith, and (iii) reference to any proceedings, either completed or pending, in which applicant has been found unfit or in which its fitness is under investigation by this Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission, or the United States Department of Transportation.

Applicant filed a projection of revenue and revenue deductions, showing revenue to be derived from the contract of \$126,585 and concomitant revenue deductions for provision of the same service of \$124,071 resulting in net operating income of \$2,514 or an operating ratio of 98. Applicant stands by his balance sheet as initially filed. Applicant filed a statement certifying his fitness, familiarity and willingness to comply with the Compact and Commission's rules and regulations, and non-existence of any proceedings, either completed or pending, before specified regulatory bodies involving fitness. The requested list of revenue vehicles and related information was also filed.

Protests were due no later than August 30, 1988. On that date International Limousine Service, Inc. (ILS or protestant), filed a notice of protest alleging the application which is the subject matter of this case to be materially defective and, therefore, not amenable to processing pursuant to Commission Regulation No. 70. It is ILS's position that, for reasons more specifically stated in its Notice of Protest, the contract between applicant and Hospital is not amendable to processing under Commission Regulation No. 70 and, based on the information of record, applicant cannot be determined fit -- operationally, financially, or as to compliance. ILS's arguments regarding fitness have been resolved by applicant's filings in response to Order No. 3217.

Commission Regulation No. 70 provides that an application of this type will be granted if it is determined that the applicant is fit, willing, and able properly to perform the proposed service and to conform to the provisions of the Compact and the rules, regulations, and orders of the Commission thereunder, and if it is determined that the proposed operations conform to the provisions of Regulation No. 70. The issue of whether the public convenience and necessity requires such service has been determined in Case No. MP-79-04. See Order No. 2004, served June 20, 1979.

After examining the evidence in this case, it is found that the underlying contract is amenable to processing under Commission Regulation No. 70. The contract specifies that applicant is to transport Hospital employees for a fixed term of at least 181 days. The Hospital's Assistant Administrator of Hospital and Employee Service attests that the ridership class for which transportation is sought is Hospital employees and the contract period exceeds 180 days. The revised financial data submitted by applicant are consistent with that interpretation. Protestant submitted a Hospital newsletter which represented that certain other transportation would be performed. The newsletter is not of evidentiary quality. Moreover, the Hospital newsletter's representation notwithstanding, any authority issued pursuant to Commission Regulation No. 70 and this order would pertain to Hospital employees only. Applicant is advised that any unauthorized transportation of passengers for hire between points in the Metropolitan District would be cause for administrative investigation or judicial action at his expense pursuant to the Compact, Title II, Article XII, Section 19.

It is further found, based on the evidence of record, that applicant is fit, willing, and able properly to provide the service described above and to conform to the requirements of the Compact and the rules, regulations, and orders of the Commission thereunder. An appropriate authorization shall be issued.

IT IS SO ORDERED.

FOR THE COMMISSION:


William H. McGilvery
Executive Director 