

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3282

IN THE MATTER OF:

Served January 26, 1989

Application of PRESIDENTIAL)
LIMOUSINE SERVICE, INC., for a)
Certificate of Public Convenience)
and Necessity to Perform Charter)
Operations)

Case No. AP-88-31

By application filed September 12, 1988, Presidential Limousine Service, Inc. (Presidential or applicant), seeks a certificate of public convenience and necessity to transport passengers in charter operations (1) between points in the District of Columbia and (2) between points in the District of Columbia, on the one hand, and, on the other, points in that part of the Commonwealth of Virginia that lie within the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 20 passengers or less (including the driver).

A public hearing was held October 27, 1988, pursuant to Order No. 3231, served September 22, 1988, and incorporated herein by reference. Applicant presented two company witnesses, a financial witness and seven public witnesses. The application is uncontested.

SUMMARY OF EVIDENCE

Mr. Theartice Boyd, applicant's president, testified as an operational witness. Mr. Boyd is responsible for applicant's day-to-day operations. He has worked in the limousine business for the past four years. Presidential is a Virginia corporation that primarily engages in limousine service as a subcontractor. More specifically, it has been the practice of various limousine companies to hire Presidential when they experience excess demand. Applicant employs twelve drivers and two support staff. Applicant's drivers are each required to have appropriate licenses, a good driving record, and must undergo three days of on-the-road driver training. Applicant plans to conduct its proposed operations using one 20-passenger vehicle equipped with a television, VCR, telephone, and wet bar. It also plans to acquire a 15-passenger vehicle to be used for back-up purposes.

Applicant plans to charge \$50 an hour for the proposed service with a three-hour minimum. Two hours advance notice is required. Mr. Boyd agreed at hearing to submit a revised tariff that reflects the notice and minimum hours of service requirements. Mr. Boyd admitted at hearing that Presidential had performed unauthorized operations in its

minibus but ceased such operations upon being informed by the Commission that WMATC authority was needed. Presidential thereafter filed this application for a certificate of public convenience and necessity.

Mr. Paul H. Shepherd, operations manager for Presidential, also testified as a company witness. Mr. Shepherd is responsible for overseeing vehicle operations and drivers. He assists in the initial training of drivers and with in-service training that is conducted periodically to assure that drivers continue to operate in a safe manner. Mr. Shepherd conducts a maintenance safety check before a vehicle leaves the premises and upon the vehicle's return. The drivers are also responsible for conducting a maintenance check that includes inspection of the vehicle's horn, brakes, turn signals, lights, oil, and water levels. Major repairs and periodic preventive maintenance are handled by an outside mechanic. Mr. Shepard is familiar with US Department of Transportation's safety requirements.

Ms. Lisa Scarazzo provided testimony regarding the financial status of the company. Ms. Scarazzo is the president of Business Works, Inc., an independent company that compiled the financial statements submitted by the applicant. The witness testified that the original financial data supplied were representative only of the financial condition of applicant after the first few months of operations and were not reflective of the company's current financial status. Based on Ms. Scarazzo's testimony the Administrative Law Judge directed that financial data reflecting applicant's current financial status be submitted. Presidential subsequently filed a statement of financial condition as of October 31, 1988, showing current assets of \$32,810.62; fixed assets, after allowance for depreciation, of \$62,999.28; and other assets including organizational costs and a prepaid lease of \$17,417.69. Current liabilities are listed at \$14,071.39 with \$92,256.48 in long-term liabilities. The statement shows equity of \$6,899.72. Presidential's operating statement for the 11 months ended October 31, 1988, shows operating income of \$123,477.88 and operating expenses of \$113,963.49 including taxes and depreciation expense, resulting in net operating income of \$9,514.39. For the first 12 months of WMATC operations Presidential projects revenues of \$44,160 and expenses of \$43,766. Ms. Scarazzo opined that Presidential should not have any financial difficulty providing the service proposed in this application.

Mr. Mark Soresi testified in support of the application. Mr. Soresi is the founder of Eastern Chemical Waste Systems (Eastern), a chemical waste remediation business. Although its work is performed throughout the country, Eastern's corporate headquarters are in Washington, DC. Eastern's clients often visit its Washington office and require transportation to a central location in Washington, DC or Northern Virginia for business meetings and entertainment. A 20-passenger vehicle is required about three times a month for these purposes. Mr. Soresi prefers providing "luxury" transportation service for Eastern's clients.

Mr. Jim Falvey testified in support of the application on behalf of Dav-El. Dav-El holds WMATC Certificate No. 123 which authorizes it to conduct charter operations between points in the Metropolitan District in vehicles seating 15 passengers or less. It provides this service using a "luxury" van. Dav-El has received requests from its clients for service in a luxury minibus. The witness testified that medium-size groups prefer to hire a single vehicle rather than be "split up" between a 15-passenger van and a limousine. Dav-El is often unable to arrange service in a 20-passenger luxury vehicle when requested because so few carriers offer such service. If the authority sought in this application is granted, Mr. Falvey expects to make between 12 and 15 referrals per year to Presidential for service in its 20-passenger vehicle.

Mr. Thomas James Hash, a licensed tour guide, testified in support of the application. Mr. Hash conducts tours in Northern Virginia and Washington, DC, and has received numerous requests for service in a mid-sized vehicle. It has been Mr. Hash's experience that 47-passenger vehicles are too large to negotiate effectively specific hotel entrances and driveways located in Northern Virginia and the District of Columbia, while 15-passenger vehicles are not spacious enough to transport comfortably some groups of travelers and their luggage. Mr. Hash requires and expects to use the proposed service between 10 and 12 times in the upcoming year for transportation between points in the District of Columbia and between the District of Columbia and Northern Virginia.

Mr. Victor Hugo Carbajal, president of Victor Hugo Livery Service, a limousine service, testified in support of the application. The witness has received numerous requests from Washington, DC hotels for service in an 18- to 21-passenger minibus. Mr. Carbajal expects to use the luxury minibus offered by applicant once a month. The witness requires transportation between Northern Virginia and Washington, DC, and between points in Washington, DC.

Mr. Dennis Bossard also testified in support of the application. Mr. Bossard is the president of Bossard Associates, Inc., a court reporting and litigation support company. He was formerly employed as regional vice president for a major limousine manufacturer. As a result of his former employment, the witness is familiar with numerous limousine companies located throughout the Washington metropolitan area and has made numerous referrals to Presidential. The witness would inform his limousine contacts regarding applicant's proposed luxury service and expects to make 30 referrals to applicant in the upcoming year.

Mr. Marvin Howell of Howell Limousine Service testified in support of the application. Mr. Howell receives requests for minibus service (1) between points in the involved Virginia area on the one hand, and, on the other, Washington, DC, and (2) between points in Washington, DC. Within the first year of WMATC operations, the witness expects to make at least 30 referrals to Presidential for service in its 20-passenger luxury minibus.

The last public support witness to testify on behalf of applicant was Mr. David Michael Callahan. Mr. Callahan owns and operates Preferred Limousine, a limousine service. Mr. Callahan receives requests for service in a 20-passenger vehicle for transportation between points in Washington, DC, and between points in Northern Virginia and Washington, DC. If this application is granted, Mr. Callahan would refer those requests to Presidential.

DISCUSSION AND CONCLUSIONS

This application is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant for a certificate of public convenience and necessity prove it is fit, willing, and able to perform properly the proposed transportation and conform to the provisions of the Compact and the Commission's rules, regulations, and orders thereunder. Section 4(b) further requires that an applicant prove that the proposed service is required by the public convenience and necessity. Based on a review of the entire record in this case, the Commission finds that Presidential has sustained the burden of proof imposed by the Compact.

Applicant owns the equipment required to provide the proposed service and has made provisions for back-up service. A system is in place for regular preventive maintenance, daily safety inspections, and repairs to that equipment. Applicant's drivers are required to have good safety records, are trained initially, given periodic in-service training, and spot-checked. A review of the financial information submitted by applicant shows a corporation financially capable of implementing the proposed service. At the hearing, applicant admitted engaging in unauthorized operations in its luxury minibus. However, its president testified that such operations ceased immediately upon receiving notice that a WMATC certificate of public convenience and necessity was required. Applicant's president intends to become fully familiar with the Commission's rules and regulations. Applicant's filing of the instant application evidences a willingness to comply with the Compact and the Commission's rules and regulations. For these reasons, we find applicant fit financially, operationally, and as to compliance.

The Commission has relied on the criteria set forth in Pan-American Bus Lines Operations, 1 MCC 190, 203 (1936), and its progeny to determine whether an applicant has satisfied its burden of proof that the public convenience and necessity require the proposed service.

Seven members of the public testified in support of the application. Their testimony establishes that Presidential's proposed operations are needed and will serve a useful public purpose. The witnesses cumulatively testified to a need for transportation in a luxury vehicle which has the capacity to seat 20 passengers. They also show a need for such service between points in the District of Columbia and between points in the District of Columbia, on the one hand, and, on the other, points in that part of the Commonwealth of Virginia that

lie within the Metropolitan District. The witnesses have received numerous requests for service in a luxury minibus that they have been unable to fill due to the lack of carriers who offer such service.

Based upon the testimony of the witnesses, the application filed by Presidential, and the documentary evidence submitted in this matter, we find that applicant has met its burden of proof that the proposed service will support a useful public purpose for which there is a demonstrated need. Since no protests were filed, we infer that the proposed service will not endanger or impair the operations of existing carriers.

THEREFORE, IT IS ORDERED:

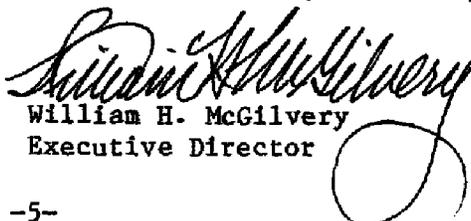
1. That Presidential Limousine Service, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers in charter operations (a) between points in the District of Columbia and (b) between points in the District of Columbia, on the one hand, and, on the other, points in that part of the Commonwealth of Virginia that lie within the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 20 persons or less (including the driver).

2. That Presidential Limousine Service, Inc., file with the Commission within 30 days of the service date of this order the following: (a) two copies of its WMATC Tariff No. 1 revised as discussed in the body of this order; (b) an equipment list specifying make, year, model, serial number, vehicle numbers, seating capacity, and license plate number and jurisdiction for each vehicle to be used in WMATC operations; (c) evidence of ownership or a lease in conformance with Commission Regulation No. 69 for each vehicle to be used in WMATC operations; (d) a certificate of insurance in accordance with Regulation No. 62, and covering all vehicles to be used in WMATC operations; and (e) an affidavit of identification of vehicles pursuant to Regulation No. 67 for which purpose WMATC No. 148 is hereby assigned.

3. That unless Presidential Limousine Service, Inc., complies with the requirements of the preceding paragraph within 30 days of 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.

4. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Presidential Limousine Service, Inc., in the form and as worded in the Appendix to this order.

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


William H. McGilvery
Executive Director

NO. 148

PRESIDENTIAL LIMOUSINE SERVICE, INC.

ARLINGTON, VIRGINIA

By Order No. 3282 of the Washington Metropolitan Area Transit Commission issued January 26, 1989;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3282;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege herein granted to the said carrier;

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passengers

- (1) between points in the District of Columbia and
- (2) between points in the District of Columbia, on the one hand, and, on the other, points in that part of the Commonwealth of Virginia that lie within the Metropolitan District,

RESTRICTED to transportation in vehicles having a manufacturer's designed seating capacity of 20 persons or less, including the driver.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.