

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3335

IN THE MATTER OF:

Served May 11, 1989

Application of KENILWORTH/PARKSIDE)
TRANSPORTATION COMPANY, INC.,)
Trading as KENILWORTH/PARKSIDE RMC)
SHUTTLE for a Certificate of Public)
Convenience and Necessity to)
Perform Special Operations)

Case No. AP-88-64

By application filed December 14, 1988, as amended December 19, 1988, and February 24, 1989, Kenilworth/Parkside Transportation Company, Inc., a District of Columbia corporation trading as Kenilworth/Parkside RMC Shuttle (K/P or applicant), seeks a certificate of public convenience and necessity to transport passengers in special operations between points in the District of Columbia, on the one hand, and, on the other, points in Arlington County, VA; Fairfax County, VA; Falls Church, VA; and Washington Dulles International Airport, Loudoun County, VA, restricted when transporting passengers between the District of Columbia, on the one hand, and, on the other, Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, against the transportation of passengers having an immediately prior or subsequent movement by air.

Pursuant to Order No. 3275, served January 11, 1989, and incorporated herein by reference, a public hearing on the matter was held on March 2, 1989. At hearing the matter stood uncontested. ^{1/} One witness testified on applicant's behalf regarding its proposed operations, and six witnesses testified in support of the application.

^{1/} Order No. 3275 gave notice of the authority sought by K/P in its application as amended December 14, 1989. As described by Order No. 3275, K/P sought ". . . to transport passengers, together with their baggage, in special operations from points in the District of Columbia to points in Arlington County, VA; Fairfax County, VA (including Fairfax City); Falls Church, VA; and Washington Dulles International Airport, Loudoun County, VA; and return." The application was protested by the Metropolitan Washington Airports Authority and The Airport Connection, Inc. After the protests were filed, K/P moved to amend its application by restricting its proposed service to and from Washington National Airport and Washington Dulles International Airport against the transportation of passengers having an immediately prior or subsequent movement by air. The Administrative Law Judge granted the unopposed motion, and no protestants appeared at hearing.

SUMMARY OF THE EVIDENCE

Mr. Dwayne Williams, K/P's vice president, testified on applicant's behalf. Applicant is a wholly-owned subsidiary of Kenilworth/Parkside Resident Management Corporation (RMC). RMC manages 464 public housing units in Northeast Washington. Since its formation in 1981, RMC has reduced operating costs for the units by 45 percent, has decreased administrative costs related to the sites by 60 percent, and has created 120 jobs for residents through various commercial ventures including a job development and placement center, a cooperative food store, a day care center, a moving company, a construction management company, a cafeteria, and a barber/beauty shop. RMC administers a \$2,000,000 budget and employs 70 staff members. According to Mr. Williams, RMC has become a national model of resident-managed public housing. Its overall emphasis is self-sufficiency for residents.

Through applicant, RMC seeks to initiate a shuttle service that would link job holders residing in the District of Columbia with their job sites in Northern Virginia. The service would be available to all residents of the District of Columbia. Mr. Williams anticipates that there will be a demand for such service by employers in Northern Virginia where the unemployment rate is low (two percent) as well as by employees in the District of Columbia where the unemployment rate is high (ten percent). The Urban Mass Transportation Administration (UMTA) has awarded K/P \$50,000 for this purpose. According to Mr. Williams, an additional \$300,000 could be made available for certain purposes. RMC has pledged to purchase \$20,000 in common stock as an investment in applicant.

The application states that the proposed service will operate between 5:30 a.m. and 11:50 p.m., and that passengers will be picked up at designated points in the District of Columbia and transported to "the Northern Virginia area" at times to be determined by customer demand. At hearing Mr. Williams testified that applicant will begin service using three vans, each of which would depart from predesignated points at 7 a.m., 3 p.m., and 11 p.m. Passengers would return at these same times. Initially the predesignated points would be centralized in Northeast Washington and one area in Northern Virginia. The points of departure for K/P's service will be determined by applicant's contracts with employers and areas of general employment.

K/P proposes to charge each "employee" ^{2/} passenger a one-way fare of \$2.50 between the District of Columbia and Arlington County, VA, and a one-way fare of \$3 for all other service. Applicant's

^{2/} The application defines "employee" as an individual engaged in providing service for another on a regular basis, in exchange for wages or salary subject to the income tax withholding provisions of the Internal Revenue Code.

proposed tariff states that "employers" ^{3/} may subsidize all or part of the above fares for persons in their employ. Weekly fare cards would be available. However, there will be no farebox as such. Either employers through contract or employees through payroll deduction will be billed for K/P's transportation service.

During the first year of operations K/P would lease at least two and no more than three 15-passenger vehicles ^{4/} equipped with mobile communication devices, probably two-way radios. Additional vehicles will be leased as required. The leases would be co-signed for financial purposes by RMC. The vehicles would be parked at the Kenilworth/Parkside housing complex. The housing complex has a garage on-site with an impoundment lot. Vehicle maintenance would be accomplished by means of a three-part program. Major repairs and maintenance will be covered by the vehicle warranty and maintenance agreement entered into as part of the lease. A separate maintenance contract with a certified mechanic will cover brakes and tune-ups every 3,000 miles. Fluid changes and other minor maintenance will be done on-site by K/P. K/P plans to hire four drivers, viz., three full-time employees and one replacement driver. Drivers must meet all driving requirements of the District of Columbia including holding a 31-C license, the District's equivalent of a chauffeur's license, must pass a preliminary 40-hour driver education program in accordance with United States Department of Transportation (USDOT) requirements, and will participate in up to five months on-the-job monitoring regarding K/P's requirements for the safe delivery of passengers.

The witness is familiar with the Compact and the Commission's rules and regulations as well as USDOT's safety regulations and is willing to comply with them on applicant's behalf.

With its application K/P submitted a balance sheet dated December 15, 1988, showing current assets of \$4,000 cash and \$36,000 contract receivable from UMTA after allowance for a \$14,000 "drawdown," plus other assets ("common stock subscriptions receivable") of \$20,000. Long-term liabilities of \$40,000 for "deferred revenue (start-up)" and \$20,000 for "Common Stock-Subscribed (Operating Cost)" are also shown. Applicant's operating statement shows operating income of \$10,000, all of which went to K/P's start-up costs to date. Administrative start-up expenses of \$6,000 and consulting start-up expenses of \$4,000 were listed. For the first twelve months of actual operations K/P projects operating income of \$125,160. The revenues represent round-trip transportation of 89 passengers a day at an average fare of \$6 a passenger. The revenue

^{3/} The application defines "employer" as a person or government agency which regularly pays to individuals, in exchange for services, wages or salary subject to the income tax withholding provisions of the Internal Revenue Code.

^{4/} Applicant has no objection to having its service restricted to the use of vehicles having a manufacturer's designed seating capacity of 15 passengers or less, including the driver.

projection assumes use of three vehicles. K/P projects operating expenses for the same period will total \$121,671.75, based on using two vehicles. The witness testified that 89 passengers is a reasonable projection. In his opinion, K/P could deliver 500 people if it had the capacity. However, it plans to start using only two or three vans. Mr. Williams perceives no financial problem if K/P's projections are "way off," because the UMTA grant would cover any revenue shortfall that might result during its initial operations.

Ms. Maria Scotchel testified in support of the application on behalf of Host International, Inc. (Host), a division of the Marriott Corporation. Host operates airport food and beverage concessions. The food and beverage facilities located at Washington Dulles International Airport, Loudoun County, VA, operate from 6 a.m. to 9 p.m. If the facilities were fully staffed, 175 persons would be employed. Ms. Scotchel has been with Host since September 1, 1987, and the food and beverage area has never been fully staffed during her employment. Marriott's hotel division at Dulles has a similar staffing problem. Between 135 and 140 people are currently employed by Host. Host brings some of those persons to Dulles from as far away as West Virginia using a company-run bus. Host had run a similar transportation service into the District of Columbia. It ceased providing the service due to the expense and now uses the Washington Flyer ^{5/} to transport employees who reside in the District of Columbia to work at Dulles. Host has jobs for people who are interested in long-term work at Dulles. Host has discussed K/P's proposed operations with Mr. Williams and is interested in having that service available for Host's use.

Mr. Douglas Sowers, general manager of the Hampton Inn Hotel, testified on its behalf in support of the application. The Hampton Inn Hotel is located in Sterling, VA, in Loudoun County. According to Mr. Sowers, Loudoun County's most recent unemployment rate is 1.5 percent. The Hotel has a high turnover rate, and it has taken as long as three months to fill certain positions. The hotel has had difficulty locating employees since it opened for business two years ago. It actively recruits employees through flyers, newspaper advertising, and even door-to-door canvassing of apartment complexes. According to Mr. Sowers this problem is common to hotels and restaurants in the area.

Ms. Jeraldine White of Pryde Roberts & Company, an economic development consulting firm located in Washington, DC, presented testimony based on research and analysis performed in connection with development of K/P's transportation plan. Depending on the source reviewed, available employment opportunities in Fairfax County, VA, have increased between 20 and 40 percent during the five-year period ended 1985. During that same time Fairfax County's unemployment rate

^{5/} This name refers to a group of carriers holding contracts with the Metropolitan Washington Airports Authority. The group is composed of certain taxicab companies, limousine services, and certificated carriers. It was not established at hearing exactly which carrier(s) Host is using.

has decreased while the District of Columbia's unemployment rate has remained relatively stable at ten percent. Ms. White has personally interviewed over a dozen managers in Northern Virginia (Herndon, Reston, Tysons Corner, and Arlington). Few of the managers' businesses were ever fully staffed, and all had consistently high turnover rates. All managers had difficulty recruiting and retaining employees, and all indicated that a service similar to that proposed by K/P was needed. Most indicated that a lack of adequate public transportation to the area was the reason they could not achieve and maintain desired employment levels.

Ms. Karen January testified on her own behalf in support of the application. Ms. January is currently employed in the District of Columbia. She has no personal means of transportation. The witness would like to obtain a better position than she now has. If such a job were available to her outside of the District of Columbia, she would accept that offer, provided transportation were available. Ms. January would use applicant's proposed service if it were available and if she were able to obtain what she considered a better position at an office located in Northern Virginia. Ms. January knows other persons seeking employment in the suburbs who would need transportation such as proposed by K/P.

Ms. Wendy Commodore testified on her own behalf in support of the application. Ms. Commodore is presently employed in the District of Columbia. She does not own a car. From time to time Ms. Commodore surveys the job market with the intent of finding a better job. She has found two opportunities. One was located in Prince George's County, MD; the other was located at Washington Dulles International Airport. However, she has not applied for the jobs due to lack of transportation. Ms. Commodore knows other persons who would use K/P's service if operational.

Ms. Carol McBryde testified in support of the application on her own behalf. Ms. McBryde is presently employed in the District of Columbia. She does not own an automobile and depends on public transportation. Ms. McBryde does not believe that her current employer adequately compensates her for her skills and is looking for other employment. She is aware of employment opportunities in Northern Virginia. Although she has checked into the availability of these positions by telephone, she has not applied for them because she lacks the means to reach the places of employment. If this application is granted, she believes she would be able to earn a better income. Ms. McBryde would use K/P's service if this application is granted. Ms. McBryde knows other persons who have problems obtaining employment due to lack of transportation.

DISCUSSION AND CONCLUSIONS

Title II, Article XII, Section 4(b) of the Compact governs this application. In relevant part Section 4(b) provides:

. . . the Commission shall issue a certificate to any qualified applicant therefor, authorizing the whole or any part of the transportation covered by the application, if it finds . . . 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

After reviewing the entire record in this case, we find that applicant is fit operationally, financially, and as to compliance. K/P is a new corporation in its initial stages of operation. However, it is a wholly-owned subsidiary of a corporation that has proven itself competent to conduct successfully a variety of businesses. K/P has made careful preparations to offer the proposed service even to the point of hiring a consulting firm to assist in developing its transportation plan. It is clear from the testimony at hearing that certain important details, e.g., the number, make, and model of vehicles to be used, remain to be determined. However, it is also clear that those vehicles used will be new, appropriately appointed, thoroughly maintained, and driven by qualified drivers. Because K/P's proposal involves a matching of employers and employees followed by establishment of appropriately convenient pick-up and drop-off points, establishing the exact parameters of the service will be a continuing process intended to optimize the match between riders and service points. This creates no feasibility problem because K/P will lease its vehicles, thereby allowing service to expand and contract with its service base. K/P's method of financing provides an additional safeguard relative to its ability to offer the proposed service. Through UMTA, applicant has \$50,000 available for "start-up." The use of this money appears to be unrestricted. UMTA would make available for K/P's vehicle leasing costs as much as \$280,000 more. This, in combination with the \$20,000 to be made available by applicant's parent, would come close to covering the shortfall that would otherwise be projected after adjusting expenses to include three, rather than two, vehicles. It should be noted, however, that it is UMTA's intent to furnish seed money for a self-supporting commuter service, and the projected operating statement shows applicant's to be such an operation if revenues are assumed to be generated with two vehicles only. This is a possibility given that K/P derived the revenues on the assumption that it would operate three round-trips a day per vehicle and carry 89 passengers a day. Applicant's representative is familiar with the Compact and the Commission's rules and regulations and is willing to comply with them. Based on applicant's actions to date, there is every reason to believe that will be the case.

Likewise, we find that the public convenience and necessity require the proposed service. Testimony regarding area labor statistics and the experience of managers of businesses located in Northern Virginia indicate that there is an imbalance between available jobs and available employees. The unemployment rate in Northern

Virginia is exceptionally low, under two percent in some areas; the unemployment rate in the District of Columbia is ten percent. Although the number of jobs located in Northern Virginia has grown by as much as forty percent over a recent five year period, the District of Columbia's unemployment rate has remained substantially unchanged. The combination of Northern Virginia's low unemployment and continuing business expansion has produced businesses that are continually understaffed and have high turnover rates. Both employers who testified at hearing provide transportation for their employees. 6/ One of the employers brings workers from West Virginia. Potential employees who appeared in support of the application all live in the District of Columbia and rely on public transportation. All, though currently employed in the District of Columbia, are looking for better positions. Each has found suitable vacant positions in Northern Virginia but has not been able to pursue the vacancies actively due to lack of transportation. Each knows other persons similarly situated. Each would use K/P's service if this application is granted. No carrier currently provides this service. It is inferred from the absence of protests directed to the proposed service (as amended) that no carrier would be materially affected by a grant of this application. Lastly, in keeping with the evidence of record, a vehicle size limitation (to which the applicant is amenable) will be imposed in the authority granted.

THEREFORE, IT IS ORDERED:

1. That Kenilworth/Parkside Transportation Company, Inc., trading as Kenilworth/Parkside RMC Shuttle is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers in special operations from points in the District of Columbia to points in that part of the Commonwealth of Virginia that lie within the Metropolitan District, except Alexandria, VA, and return, restricted when transporting passengers between the District of Columbia, on the one hand, and, on the other, Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, against the transportation of passengers having an immediately prior or subsequent movement by air, and further restricted to the transportation of passengers in vehicles having a manufacturer's designed seating capacity of 15 passengers or less, including the driver.

2. That Kenilworth/Parkside Transportation Company, Inc., trading as Kenilworth/Parkside RMC Shuttle shall file with the Commission the following: (a) two copies of its WMATC Tariff No. 1 in conformance with Commission Regulation No. 55; (b) an equipment list specifying make, model, serial number, vehicle number, seating capacity, and license plate number (with jurisdiction) for each vehicle

6/ One employer represented an establishment located entirely outside the Metropolitan District. His testimony has been used merely as supporting evidence of the difficulty in hiring and retaining employees who live near their job sites.

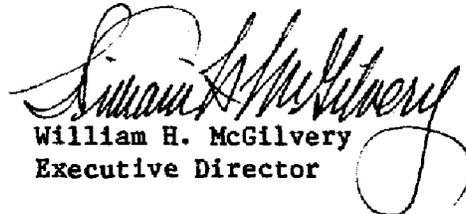
to be used in revenue service; (c) evidence of ownership or a lease in conformance with Commission Regulation No. 69 for each vehicle to be used in revenue operations; (d) a certificate of insurance in accordance with Commission Regulation No. 62 covering all vehicles to be used in revenue operations; and (e) an affidavit of identification in accordance with Regulation No. 67 for which purpose WMATC No. 153 is hereby assigned.

3. That unless Kenilworth/Parkside Transportation Company, Inc., trading as Kenilworth/Parkside RMC Shuttle complies with the requirements of the preceding paragraph within 30 days of the service date of this order or such other time as the Commission may direct or allow, the grant of authority contained 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 Kenilworth/Parkside Transportation Company, Inc., trading as Kenilworth/Parkside RMC Shuttle in the form and as worded in the Appendix to this order.

5. That the application, except to the extent granted herein, is denied.

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


William H. McGilvery
Executive Director

NO. 153

KENILWORTH/PARKSIDE TRANSPORTATION COMPANY, INC.
Trading as KENILWORTH/PARKSIDE RMC SHUTTLE

WASHINGTON, DC

By Order No. 3335 of the Washington Metropolitan Area Transit
Commission issued May 11, 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. 3335;

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:

SPECIAL OPERATIONS, transporting passengers from
points in the District of Columbia to points in that
part of the Commonwealth of Virginia that lie within
the Metropolitan District, except Alexandria, VA,
and return,

RESTRICTED, when transporting passengers between the
District of Columbia, on the one hand, and, on the
other, Washington National Airport, Arlington
County, VA, and Washington Dulles International
Airport, Loudoun County, VA, against the
transportation of passengers having an immediately
prior or subsequent movement by air, and

FURTHER RESTRICTED to transportation in vehicles
having a manufacturer's designed seating capacity of
15 passengers 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.