

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3337

IN THE MATTER OF:

Served May 15, 1989

Application of EYRE BUS SERVICE,)
INC., for a Certificate of Public)
Convenience and Necessity --)
Charter Operations)

Case No. AP-88-45

SAFEWAY TRAILS, INC. --)
"Grandfather" Application)

Application No. 96

By application filed October 31, 1988, Eyre Bus Service, Inc. (Eyre or applicant), seeks a certificate of public convenience and necessity to transport passengers in charter operations between points in the Metropolitan District. 1/2/

Eyre holds WMATC Certificate No. 17 which authorizes the following transportation:

IRREGULAR ROUTE

A. Charter Operations:

From Damascus, Md., and points in Montgomery County, Md., within 15 miles of Damascus, Md., except Rockville, Md., to points in the District of Columbia and Fairfax and Arlington Counties, and the Cities of Alexandria and Fairfax, Va., and return, round-trip only.

B. Special Operations:

From Damascus, Md., and points in Montgomery County, Md., within 15 miles of Damascus, Md., except Rockville, Md., to points in Montgomery and Prince George's Counties, Md., the District of Columbia, and Fairfax and Arlington Counties, Va., and return, round-trip only.

1/ To the extent this application could be interpreted to include transportation solely within Virginia, it is hereby dismissed pursuant to the Compact, Title II, Article XII, Section 1(b).

2/ This application is interpreted to exclude charter transportation authorized by WMATC Certificate No. 17.

C. Restriction:

The transportation of passengers having a prior or subsequent movement by air is specifically prohibited.

In addition, Eyre is authorized, pursuant to Special Certificate of Public Convenience and Necessity No. 1, to perform certain charter operations under contract with Close Up Foundation. 3/

The proposed service would be performed using over 50 coaches manufactured between 1976 and 1988. With its application Eyre submitted a copy of Supplement No. 1 to its charter coach tariff currently on file with the Interstate Commerce Commission and governing Eyre's ICC operations. 4/ According to information contained in this application, it is Eyre's intention to charge the same fares and apply the same regulations to similar service both within and without the Metropolitan District. Under the proposed tariff Eyre would charge the greater of \$1.75 per live mile or \$40 an hour subject to a minimum charge of \$160 plus \$1.40 per deadhead mile or specific positioning charge if listed. Airport transfers would be offered at \$235 for Washington National Airport, Arlington County, VA, and \$255 for Washington Dulles International Airport, Loudoun County, VA. The tariff provides for a cancellation charge of \$200 per coach for any trip cancelled on less than 20 days notice. Much of the substance of the tariff and the entire tariff cover sheet have no application to this Commission or transportation under its jurisdiction. Therefore, applicant will be directed to file a new proposed tariff showing the rates, terms, and conditions that apply only to service between points in the Metropolitan District.

With its application Eyre submitted a balance sheet dated December 31, 1987, showing current assets of \$933,336 and fixed assets, after allowance for depreciation, of \$754,418. Current liabilities of \$1,360,087 were also listed. Eyre's operating statement for the 12 months ended December 31, 1987, shows WMATC operating income of \$546,614, other operating income of \$5,478,487, and operating expenses, after allowance for taxes and depreciation, of \$6,021,706. Applicant projects revenue from charter operations of \$1,150,000 over a 12-month period. Expenses for the same period are projected to be \$1,080,000. Eyre will be directed to submit a balance sheet and operating statement

3/ Both WMATC Certificate No. 17 and Authorization No. SP-17-02 were issued initially to Eyre's Bus Service, Inc. The certificate and the special authorization have been reissued to Eyre Bus Service, Inc., simultaneously with the service of this order. Applicant amended its Articles of Incorporation on November 17, 1987, to delete the "'s" after "Eyre."

4/ Applicant's tariff as submitted applies to transportation of passengers and their baggage. Notice is hereby given that applicant may wish to amend its application to include transportation of mail, express, and baggage in the same vehicle as passengers.

neither of which is older than six months. Applicant will also be directed to file a 12-month projection of revenue and itemized revenue deductions (including allocable fixed expenses) to be derived from the proposed operations.

Pursuant to the Compact, Title II, Article XII, Section 4(b), this application will be scheduled for public hearing to determine if applicant is fit, willing, and able to perform the proposed service properly and comply with the Compact and the Commission's rules and regulations and to determine whether the public convenience and necessity require the proposed service. With its application, Eyre submitted a check for \$750 ". . . to cover the filing fee." The Commission does not assess a filing fee as such. However, this amount will be treated as if Eyre had complied with the usual directive to pay a specified amount preliminarily estimated to cover expenses applicant is required to bear pursuant to the Compact, Title II, Article XII, Section 19.

By motion filed November 10, 1988, Eyre seeks to consolidate Case No. AP-88-45 with Application No. 96, In re Safeway Trails, Inc. -- "Grandfather" Application, in which a Petition to Reopen, filed by Eyre is pending. The motion will be granted.

Application No. 96 will be reopened for the purposes of determining (1) whether and to what extent Eyre is a successor-in-interest to Safeway Trails; (2) whether and to what extent the evidence of record in Application No. 96 may be applied to Eyre thus requiring the Commission to consider Eyre's application under the standards established by the Compact, Title II, Article XII, Section 4(a); and (3) whether and to what extent Eyre, if found to be a successor-in-interest to Safeway Trails, may perform transportation within the Metropolitan District which transportation is exempt from the Commission's jurisdiction pursuant to the Compact, Title II, Article XII, Section 1(a)(4). In view of the terms of Section 4(a), the existence of a completed record in Application No. 96, and the legal -- as opposed to factual -- nature of the Commission's inquiries on reopening, Eyre is not obliged to present any evidence on the matters to be addressed in Application No. 96. Eyre may, of course, present such relevant evidence as it wishes in support of its position. Legal argument will be allowed only on brief.

THEREFORE, IT IS ORDERED:

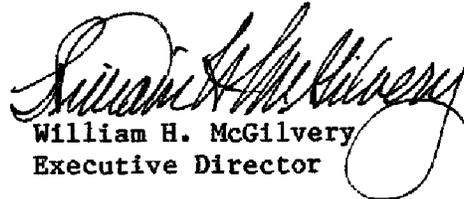
1. That Application No. 96, In re Safeway Trails, Inc. -- "Grandfather" Application, is hereby reopened for the purposes discussed in the body of this order.
2. That Application No. 96 and Case No. AP-88-45 are hereby consolidated.
3. That a public hearing in Case No. AP-88-45 is hereby scheduled to commence Tuesday, July 11, 1989, at 9:30 a.m. in the Hearing Room of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104.

4. That Eyre Bus Service, Inc., shall publish once in a newspaper of general circulation in the Metropolitan District and post continuously and conspicuously in each of its vehicles through the date of public hearing, notice of these applications and the hearing thereon in the form prescribed by the staff of the Commission, no later than Thursday, June 1, 1989, and shall present at hearing affidavits of publication and posting.

5. That any person desiring to protest these applications shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard on this matter shall so notify the Commission, in writing, no later than Friday, June 30, 1989, and shall simultaneously serve a copy of such protest or notice on applicant's counsel, Charles A. Webb, Esquire, 606 London House, 1001 Wilson Boulevard, Arlington, VA 22209.

6. That Eyre Bus Service, Inc., is hereby directed to file with the Commission no later than Friday, June 30, 1989, the following: (a) a proposed tariff applicable solely to service within the Metropolitan District, (b) a balance sheet and operating statement neither of which is more than six months old, and (c) a 12-month projection of revenue and revenue deductions (including allocable fixed expenses) to be derived from the proposed operations.

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


William H. McGilvery
Executive Director