

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3365

IN THE MATTER OF:

Served June 27, 1989

Application of Eugene H. George)
Trading as SILVER STAR SIGHTSEEING)
TOURS to Transfer Certificate)
No. 108 to SAMUEL J. HOWELL)

Case No. AP-89-23

EUGENE H. GEORGE Trading as SILVER)
STAR SIGHTSEEING TOURS, Suspension)
and Investigation of Revocation of)
Certificate No. 108)

Case No. MP-89-03

By application filed May 1, 1989, in Case No. AP-89-23, Eugene H. George trading as Silver Star Sightseeing Tours (transferor) seeks approval of the Commission to transfer his Certificate of Public Convenience and Necessity No. 108 to Samuel J. Howell (transferee). Transferee trading as Samuel Howell Sightseeing Tours holds WMATC Certificate of Public Convenience and Necessity No. 89. Copies of Certificate Nos. 108 and 89 are attached to this order.

The application includes a contract of sale for the "entire tour business and assets owned and operated by" transferor, including Certificate No. 108. Also included are financial statements for transferee. Transferee's balance sheet as of December 31, 1988, shows current assets of \$27,600 and fixed assets of \$26,992 after depreciation. Current liabilities are shown as \$8,000, and no long-term liabilities are shown. Proprietor's equity is shown as \$46,592. Transferee's operating statement for the year ended December 31, 1988, shows WMATC operating income of \$29,852 and operating expenses, including depreciation, of \$26,110, resulting in net operating income of \$3,742.

By Order No. 3325, served May 2, 1989, in Case No. MP-89-03, transferor's Certificate No. 108 was suspended, and transferor was directed to cease operations. An investigation was instituted to determine whether Certificate No. 108 should be revoked for failure to maintain insurance coverage as required by the Compact and Commission regulations.

By letter filed May 19, 1989, transferor (respondent in Case No. MP-89-03) requested that these two cases be consolidated for consideration. The letter states that transferor, having decided to retire and sell his business, decided not to renew his insurance. Further, transferor waives hearing in Case No. MP-89-03.

We will grant the request to consolidate these cases for consideration, and we will consider transferor's May 19 letter as a timely response to our directive that he show cause within 30 days why Certificate No. 108 should not be revoked.

It appears that Case No. AP-89-23 falls within the ambit of the Compact, Title II, Article XII, Section 4(h) because it involves the transfer of a certificate, and also Section 12(a)(2) because it involves a carrier which operates in the Metropolitan District acquiring control of a carrier which operates in the Metropolitan District. If transferor intends that these certificates be consolidated or merged, as would seem likely in the event of Commission approval, then Section 12(a)(1) is also involved. This situation, however, leads to no undue complexity as the standard for approval in each cited section is consistency with the public interest.

Unlike Section 4(h), Section 12(a) requires an opportunity for hearing. We will schedule Case No. AP-89-23 for public hearing and provide an opportunity for the filing of protests to the application. In the event that no protests are timely filed, the Commission would consider a joint motion by transferor and transferee to waive public hearing and the hearing assessment and proceed upon consideration of the application as filed, plus any additional evidence or argument the parties may care to present.

In the meantime, transferor has been obliged to cease operations since its insurance expired. This is the peak sightseeing season and we are concerned that the locations transferor is authorized to serve may be in need of having service restored. Moreover, if service is not soon restored during this critical period, it appears that this may interfere substantially with the future usefulness of Certificate No. 108 in the performance of adequate and continuous service to the public. Accordingly, we shall invoke our authority under Section 12(d), in our discretion, and without hearings or other proceedings, to grant 180 days temporary approval for transferee to conduct operations pursuant to Certificate No. 108. Transferee shall conduct such operations in accordance with the terms and rates in the tariff currently filed with the Commission by transferor. To the extent that transferee desires to use equipment not already covered by its currently filed insurance certificate, transferee is directed to comply with the requirements of the Commission's insurance and other regulations concerning such additional equipment.

THEREFORE, IT IS ORDERED:

1. That Case Nos. AP-89-23 and MP-89-03 are hereby consolidated for consideration.
2. That a public hearing in Case No. AP-89-23 is hereby scheduled to commence Wednesday, August 23, 1989, at 9:30 a.m. in the Hearing Room of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104.
3. That Eugene H. George and Samuel L. Howell shall jointly publish once in a newspaper of general circulation in the Metropolitan District, notice of this application and the hearing thereon in the form prescribed by the staff of the Commission, no later than Friday, July 7, 1989, and shall file with the Commission an affidavit of such publication no later than Friday, July 21, 1989.

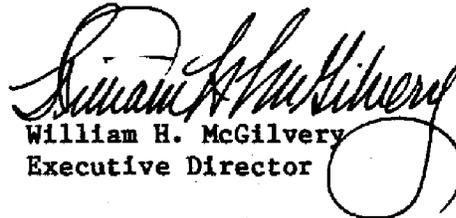
4. That any person desiring to protest this application shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard on this matter shall so notify the Commission, in writing, no later than Friday, July 21, 1989, and shall simultaneously serve a copy of such protest or notice on Sammy S. Knight, Esquire, 2514 Columbia Pike, Arlington, VA 22204.

5. That Eugene H. George and Samuel J. Howell are each hereby assessed \$200 pursuant to the Compact, Title II, Article XII, Section 19, and each is directed to deliver said amount to the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than Friday, August 11, 1989.

6. That Samuel J. Howell is hereby granted 180 days temporary approval, effective on the service date of this order, pursuant to the Compact, Title II, Article XII, Section 12(d), to conduct operations pursuant to Certificate No. 108 at the rates currently filed with the Commission by Eugene H. George for the provision of such service.

7. That Samuel J. Howell, in the provision of service authorized by the preceding paragraph, shall comply with all requirements of the Compact and the Commission's regulations.

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


William H. McGilvery
Executive Director

NO. 89

SAMUEL HOWELL

Trading As

SAMUEL HOWELL SIGHTSEEING TOURS

WASHINGTON, D. C.

By Order Nos. 2447, 2483 and 2504 of the Washington Metropolitan Area Transit Commission issued August 9, October 7, and December 2, 1983;

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 Nos. 2447, 2483 and 2504;

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, restricted to lectured, round-trip sightseeing tours, between Mount Vernon and Arlington National Cemetery, Va., the Veteran Administration, the Bible Way Church, the Gramercy Inn, and the Normandy Inn, and points in that part of the District of Columbia south of a line beginning at at the junction of Constitution Avenue, N.W., and Rock Creek Parkway, N.W., thence along Constitution Avenue, N.W., to 17th Street, N.W., thence along 17th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to 10th Street, N.W., thence along 10th Street, N.W., to F Street, N.W., thence along F Street, N.W., to 9th Street, N.W., thence along 9th Street, N.W., to Pennsylvania Avenue, N.W., thence along Pennsylvania Avenue, N.W., to Constitution Avenue, N.W., thence along Constitution Avenue to its junction with 2nd Street, N.E.

RESTRICTED to the transportation of passengers in vehicles with 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.

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

NO. 108

EUGENE H. GEORGE

Trading As

SILVER STAR SIGHTSEEING TOURS

ARLINGTON, VIRGINIA

By Order Nos. 2557 and 3043 of the Washington Metropolitan Area Transit Commission issued May 22, 1984, and July 2, 1987;

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 Nos. 2557 and 3043;

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 and their baggage in the same vehicles with passengers, in round-trip sightseeing service, from Econo-Travel Motor Hotel, 3335 Lee Highway, Arlington, Va; Quality Inn-Governor Motel, 6650 Arlington Boulevard, Fairfax County, Va.; Econo Lodge, 421 West Broad Street, Falls Church, Va.; Stratford Motor Lodge, 300 West Broad Street, Falls Church, Va.; Travelodge Seven Corners, 6111 Arlington Boulevard, Fairfax County, Va; Best Western Falls Church Inn, 6633 Arlington Boulevard, Fairfax County, Va; Econo Lodge, 6800 Lee Highway, Arlington, Va.; and Comfort Inn, 1211 North Glebe Road, Arlington, Va., to points in the District of Columbia and Arlington County, Va., and return.

RESTRICTED to service in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver), and further restricted against transportation solely within the Commonwealth of Virginia.

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.

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