

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3408

IN THE MATTER OF:

Served September 18, 1989

Application of ATE MANAGEMENT AND )  
 SERVICE COMPANY, INC., for a )  
 Certificate of Public Convenience )  
 and Necessity -- Charter Operations)

Case No. AP-89-16

By application filed April 4, 1989, and subsequently amended, ATE Management and Service Company, Inc. (ATE or applicant), a Delaware corporation, seeks authority to transport passengers in charter operations between points in Montgomery County, MD, pursuant to a contract with the Montgomery County, MD, Department of Transportation, Division of Transit Services (the County).

The contract, with its amendment, identifies the proposed routes and hours of operation as follows:

<u>Route</u>	<u>Description</u>	<u>Proposed Service</u>
23	Sibley Hospital-Friendship Heights Station	Midday-Weekday
30	Medical Center Station-Bethesda Station	Midday-Weekday
31	Glen Echo-Bethesda Station	Midday-Weekday
32	Cabin John-Bethesda Station	Midday-Weekday
34	Bethesda CBD Loop	Midday-Weekday
36	Bradley Boulevard-Bethesda Station	Midday-Weekday and Saturday
37	Potomac-Grosvenor Station	Rush Hour-Weekday
44	Rockville Station-Twinbrook Station	Rush Hour-Weekday
45	Rockshire-Twinbrook Station	All Day-Weekday
52	Shady Grove Station-Olney-Rockville	Rush Hour-Weekday
53	Shady Grove Station-Olney-Rockville	Rush Hour-Weekday
56	Lakeforest-Rockville Station	All Day Saturday
58	Lakeforest-Shady Grove Station	All Day Saturday
61	Germantown-Shady Grove Station	All Day Saturday
64	Montgomery Village-Shady Grove Station	All Day Saturday
68	MARC Station-Waters Landing	Rush Hour-Weekday
69	MARC Station-Gunners Lake	Rush Hour-Weekday
70	MARC Station-Clopper Mateney-Cinnamon Woods-MARC Station	Rush Hour-Weekday

By Order No. 3324, served May 1, 1989, ATE was granted temporary authority to perform service encompassed by the contract. A public hearing was held on July 20, 1989, pursuant to Order Nos. 3329, 3333, and 3351 served May 5, May 10, and June 13, 1989, respectively. The orders are incorporated herein by reference. One witness testified on behalf of the applicant. A representative of Montgomery County testified in support of the proposed operations. The application was unopposed.

## SUMMARY OF EVIDENCE

Mr. Richard Clair is ATE's senior vice president of the transit contracting division for the eastern United States. ATE is a transit management firm headquartered in Cincinnati, OH. ATE was established in 1969 for the purpose of providing professional management services to public transit systems. In 1984 the transit contracting division was created to provide passenger transportation services to the public sector. The division operates 33 services in 13 states. Most of the operations are commuter-type services similar to those proposed here.

Pursuant to contract with the County, applicant would be required to conduct the proposed operations in fourteen 21-passenger vehicles. Two of those vehicles would be reserved for back-up purposes. The vehicles are garaged and maintained in Gaithersburg, MD, at a maintenance facility with eight service bays and 19 mechanics. A general safety check of applicant's vehicles is conducted every 3,500 miles. Equipment is placed out of service and repaired overnight if any defects are discovered. Vehicles are washed daily. ATE's drivers are required to participate in a National Safety Council defensive driving program with a minimum 88 hours initial training course. All drivers must attend training sessions twice a year. Thirty-five drivers, three supervisors and a manager are assigned to work on the Montgomery County contract operation.

The contract limits compensation to \$1,300,000 for each of the first two years. Individual fares will be established by the County and collected by ATE. Applicant's balance sheet as of December 31, 1988, shows current assets of \$10,966,803, fixed assets after allowance for depreciation of \$8,489,380, and other assets of \$10,303,183. Current liabilities of \$4,814,429, long-term liabilities of \$10,227,576, and equity of \$14,717,361 are also listed. For the first seven months of contract operations, applicant expects to generate income of \$769,194 and incur operating expenses of \$653,284. After allowances are made for depreciation, taxes, and licenses, applicant expects to realize \$12,518 net income from its first seven months of WMATC operations.

ATE is currently abiding by the Compact, and the rules and regulations of this Commission and plans continued compliance. It also plans to comply with the United States Department of Transportation safety regulations.

Mr. Marc D. Atz, section chief of the Service Development and Promotion Section, Division of Transit Service, Department of Transportation of Montgomery County, MD, testified in support of the application. Mr. Atz's duties include, inter alia, overseeing the design and development of the County's Ride-On system. In an effort to provide intra-county commuter bus and mass transit services for its citizens, the County operates the Ride-On system. The Ride-On system is a fixed-route scheduled service utilizing 231 vehicles. The County owns and operates 45-passenger buses for use on high density routes. However, for lower density routes, the County has determined that it is

more economically efficient to secure the services of private carriers using smaller vehicles to perform the required transportation. Contractors are required to comply with rules, fares, and schedules established by the County.

As overseer of the Ride-On system, Mr. Atz was directly involved in the bid-selection process that resulted in the award of this contract. A five-person panel reviewed the qualifications of three carriers by examining the carriers':

- a) understanding of the problem;
- b) understanding of Montgomery County;
- c) operation plan submitted; and
- d) experience.

Applicant was ultimately selected. The witness testified that the County has been satisfied with ATE's performance during its operations under temporary authority and estimated that weekday ridership has been approximately 7,000 passengers daily. A ten percent increase in ridership for the upcoming year is expected. Mr. Atz stressed the importance of the services that applicant currently performs and stated that while the County has a fleet of buses that it can employ, such a move would cause an economic strain on County resources.

#### DISCUSSION AND CONCLUSIONS

This matter 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 that it is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity. After reviewing the entire record in this case we find that ATE has met its statutory burden. Accordingly, the application shall be granted.

ATE has significant experience providing commuter-type transportation services in numerous states. It purchased fourteen 21-passenger vehicles for use specifically under the contract with the County. ATE has an extensive driver safety program that incorporates mandatory refresher courses. It has been operating the transportation for which it is seeking a certificate pursuant to a grant of temporary authority since May 7, 1989. During that time, applicant has demonstrated that it has the capability to operate the service in a way that meets the specific requirements of the County's Ride-On program. Applicant is a financially healthy company, and it is expected that the proposed operations would be profitable.

ATE has shown a willingness to comply with the Compact and the Commission rules and regulations. It is also familiar with the United States Department of Transportation safety regulations and intends to abide by them.

Since the authority sought in this application is limited to service for a single account, just one public support witness representing Montgomery County testified concerning the need for the proposed transportation services. The testimony highlighted the benefits that such a service would provide to the County in its efforts to offer adequate and efficient transportation services to the riding public. The witness testified that about 7,000 passengers use applicant's services daily, with a projected ten percent increase expected within one year. The testimony supports applicant's position that the proposed service is required by the riding public.

THEREFORE, IT IS ORDERED:

1. That ATE Management and Service Company, Inc., is hereby conditionally granted authority, contingent upon timely compliance with the requirements of this order, to transport passengers in charter operations between points in Montgomery County, MD, pursuant to contract dated March 6, 1989, with Montgomery County, MD, together with any continuous extensions, amendments, or modifications thereto.

2. That ATE Management Service Company, Inc., is hereby directed to file with the Commission within 30 days of the service date of this order: (a) an affidavit of identification of vehicles in accordance with Commission Regulation No. 67 for which purpose WMATC No. 157 is hereby assigned; (b) an equipment list indicating make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (c) two copies of its WMATC Tariff No. 1; and (d) a certificate of insurance in accordance with Regulation No. 62.

3. That unless ATE Management and Service Company, 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 contained herein shall be void, and the application shall stand denied in its entirety upon the expiration of the said compliance time.

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

  
William H. McGilvery  
Executive Director

NO. 157

ATE MANAGEMENT AND SERVICE COMPANY, INC.

By Order No. 3408 of the Washington Metropolitan Area Transit Commission issued September 18, 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. 3408;

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 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:

CHARTER OPERATIONS PURSUANT TO CONTRACT with  
Montgomery County, MD, between points in Montgomery  
County, MD, pursuant to contract dated March 6,  
1989, together with any continuous extensions,  
amendments, or modifications thereto.

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.