

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3423

IN THE MATTER OF:

Served October 18, 1989

Application of BILL APPELL Trading)
as PERSONAL PACE TOURS to Amend)
Certificate No. 130)

Case No. AP-89-17

By Order No. 3404, served September 13, 1989, the Commission conditionally granted applicant authority to transport passengers "in charter and special operations between points in the Metropolitan District, restricted to round-trip sightseeing tours." There were further restrictions on the grant of authority that are not relevant here, and the grant was conditioned upon applicant's timely compliance with certain requirements set forth in the order.

On September 19, 1989, applicant filed a letter stating that the grant of authority "would restrict the charter portion of the application to round-trip tours. This was not the intent of the applicant, who could for[e]see, for example, that a charter tour might be tied in with an airport transfer, and thus not be round-trip in nature." Applicant requested that the grant be reworded to eliminate the round-trip restriction as to charter operations only.

The Compact, Title II, Article XII, Section 16 provides in part:

Any person affected by any final order or decision of the Commission may, within thirty days after the publication thereof, file with the Commission an application in writing requesting a reconsideration of the matters involved, and stating specifically the errors claimed as grounds for such reconsideration.

Applicant's filing of September 19, 1989, will be considered an application for reconsideration.

Having examined the application for reconsideration, we find the only specification of error to be that the round-trip restriction "was not the intent of the applicant." To determine applicant's intent we first examined the application which describes the authority sought as follows:

Per capita and charter sightseeing between points in the Metropolitan District; Restricted against originating such tours at the National Mall, The Ellipse, and the Days Inn Capital Centre.

Further, we have examined the public notice that was prepared by the Commission staff and published by applicant. It states, in pertinent part, that applicant:

seeks to amend Certificate No. 130 to include special and charter sightseeing operations between points in the Metropolitan District, restricted against origination at the National Mall, The Ellipse, and the Days Inn-Capital Centre.

Based upon the foregoing we find that the language of both the application and the public notice was silent as to round-trip and/or one-way operations. We cannot find that applicant intended that all of the proposed operations be restricted to round-trip service. This tends to support the intent asserted in the application for reconsideration.

However, it does raise the question of why applicant expresses in its application for reconsideration that it did intend that the round-trip restriction should apply to special operations and should not apply to charter operations. We find two answers to this question. First, applicant's existing certificate contains only special operations authority, and that authority as it now stands is restricted to round-trip operations. This restriction expresses applicant's intent concerning special operations as established in the proceeding leading to the issuance of Certificate No. 130, and it is reasonable, as applicant asserts in its application for reconsideration, that applicant intends to continue the same type of special operations it has conducted historically. Second, elimination of the round-trip restriction as to charter operations alone is a reasonable intention because charter operations involve affinity groups where the members of the group are travelling together pursuant to a common purpose and under a single contract, and have acquired the exclusive use of a vehicle. Particularly when it is considered that in this case the group could only have chartered the vehicle for sightseeing purposes, it is reasonable to project that such a group may have travelled here from out of town and, having been picked up at a hotel, may wish to be dropped off at a restaurant, convention center, or other location.

We turn now to an examination of our discussion and conclusions in Order No. 3404. We find there in four short paragraphs on one page no less than nine approving references to applicant's "proposed" transportation, service, or operations. We intended to grant the application as proposed and intended by applicant, and we find applicant's expression of its intention in its application for reconsideration to be consistent with its application and the public notice thereof. The application for reconsideration will be granted, and the conditional grant of authority will be revised accordingly.

THEREFORE, IT IS ORDERED:

1. That Bill Appell trading as Personal Pace Tours/Tech Tours Washington is hereby conditionally granted authority, contingent upon timely compliance with the terms of this order, to transport passengers

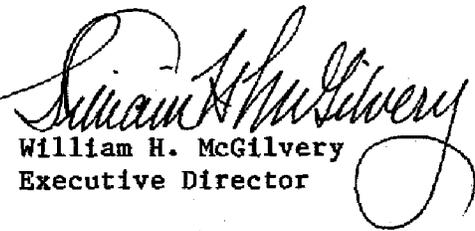
in charter and special operations between points in the Metropolitan District, restricted to sightseeing tours, further restricted against originating tours at the National Mall, The Ellipse, and the Days Inn-Capital Centre, Capitol Heights, MD, further restricted against transportation between points located solely within the Commonwealth of Virginia, and further restricted as to special operations to round-trip operations.

2. That Bill Appell trading as Personal Pace Tours/Tech Tours Washington is hereby directed to file with the Commission the following: (a) three copies of his WMATC Tariff No. 3; (b) an equipment list specifying make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (c) a certificate of insurance in accordance with Commission Regulation No. 62; and (d) an affidavit of identification of equipment in accordance with Commission Regulation No. 67.

3. That unless Bill Appell trading as Personal Pace Tours/Tech Tours Washington complies with the requirements of the preceding paragraph within 30 days from 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 effective upon the expiration of the said compliance time.

4. That upon timely compliance with the requirements of this order Bill Appell trading as Personal Pace Tours/Tech Tours Washington will be issued a revised Certificate of Public Convenience and Necessity No. 130 in the form contained in the Appendix to this order.

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


William H. McGilvery
Executive Director

NO. 130

BILL APPELL
Trading as PERSONAL PACE TOURS/TECH TOURS WASHINGTON

By Order Nos. 2948, 3404, and 3423 of the Washington Metropolitan Area Transit Commission issued December 12, 1986; September 13, 1989; and October 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 Nos. 2948, 3404, and 3423;

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:

PART A

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting passengers between points in the Metropolitan District.

PART B

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passengers between points in the Metropolitan District.

RESTRICTED in PARTS A and B above (1) to lectured sightseeing tours, (2) against originating such tours at the National Mall, The Ellipse, and the Days Inn-Capital Centre, Capitol Heights, MD, and (3) against transportation solely within the Commonwealth of Virginia.

AND FURTHER RESTRICTED in PART A above to round-trip operations.

AND FURTHER RESTRICTED and made a condition 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.