

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3446

IN THE MATTER OF:

Served January 3, 1990

Application of MICHELINE )  
INTERNATIONAL TOURS INC., for )  
Temporary Authority -- Charter and )  
Special Operations )  
Case No. AP-89-47

By application filed September 7, 1989, Micheline International Tours Inc. (MIT or applicant), a Virginia corporation, seeks temporary authority to transport passengers, together with mail, express, and baggage in the same vehicle as passengers, in charter and special operations between points in the Metropolitan District, \*/ restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

Order No. 3407, served September 15, 1989, generally described the evidence submitted with the application, and that order is incorporated herein by reference. Order No. 3407 served as publication of notice and directed that protests, if any, be filed in accordance with Commission Rule No. 14 no later than September 26, 1989. American Coach Lines, Inc. (ACL), a Virginia corporation and holder of WMATC Certificate No. 103, and Bill Appell trading as Personal Pace Tours, a sole proprietor and holder of WMATC Certificate No. 130, protested the application.

It is ACL's position that applicant has failed to establish either that no other carrier is currently capable of meeting the need for service encompassed by its proposed operations or that there exists an immediate and urgent need for that service. Operating pursuant to WMATC Certificate No. 103, ACL claims that it specializes in serving non-English speaking (Spanish, German, Russian, and Italian) visitors to the Washington area. ACL uses six vehicles having a manufacturer's designed seating capacity of 15 passengers or less to provide multilingual tours and sightseeing service. Protestant does not operate at full capacity and could readily accommodate the needs expressed by MIT's supporting witnesses. In support of his protest Mr. Appell states that MIT's application fails to show a requirement by the public for any service other than multilingual tours. Mr. Appell

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\*/ To the extent this application could be construed to include transportation solely within the Commonwealth of Virginia, it was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b), by Order No. 3407.

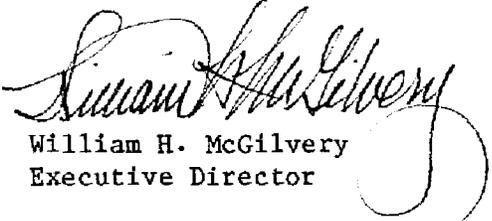
currently offers such tours pursuant to WMATC Certificate No. 130. Thus, it is Mr. Appell's position that MIT's application must be denied under the terms of the Compact, Title II, Article XII, Section 4(d)(3).

The standards for temporary authority are set forth in the Compact, Title II, Article XII, Section 4(d)(3). The essential elements are (1) immediate and urgent need for service, (2) no other carrier capable of meeting such need, and (3) fitness of the applicant.

After reviewing the entire record in this case, the Commission finds that at least two other carriers are capable of meeting the need evidenced in MIT's application. The Commission finds that both are certificated to conduct the type of service at issue in this application; both actively solicit and regularly conduct the type of service at issue in this application; both have excess capacity that would enable them to provide the type of service required by the hotel representatives supporting MIT's application. For these reasons MIT's application for temporary authority to perform charter and special operations between points in the Metropolitan District will be denied. It is noted that MIT has pending an application for a certificate of public convenience and necessity, filed pursuant to the Compact, Title II, Article XII, Section 4(b), to perform identical service (Case No. AP-89-48). The burden of proof under Section 4(b) differs from that demanded by Section 4(d)(3), and the Commission's finding in this case in no way implies a result in Case No. AP-89-48.

THEREFORE, IT IS ORDERED that the application of Micheline International Tours Inc., for temporary authority is hereby denied in its entirety.

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

  
William H. McGilvery  
Executive Director