

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3560

IN THE MATTER OF:

Served September 21, 1990

Application of SOUTH EAST AREA )  
TRANSIT, INC., for a Certificate of )  
Public Convenience and Necessity -- )  
Special Operations )

Case No. AP-90-21

By application filed May 1, 1990, South East Area Transit, Inc. (SEAT or applicant), seeks a certificate of public convenience and necessity to transport passengers in special operations (A) between points in Washington, DC; Prince George's County, MD; and Alexandria, Arlington and Fairfax, VA, and (B) between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in Washington, DC; Montgomery and Prince George's Counties, MD; and Arlington VA, restricted to transportation of transportation-disadvantaged persons. 1/

A public hearing was held on July 12, 1990, pursuant to Order No. 3502, served May 16, 1990. The hearing was continued to July 31, 1990, by Order No. 3530, served July 25, 1990, due to scheduling conflicts involving a witness from the Office of Health Care Financing, Department of Human Services of the District of Columbia. Both orders are incorporated herein by reference. Applicant presented one witness who testified on behalf of SEAT regarding operations and four public witnesses. The application was unopposed.

SUMMARY OF EVIDENCE

Mr. Albert Hopkins, chairman of the board and president of SEAT, testified at hearing. SEAT is a for-profit District of Columbia corporation owned by four non-profit corporations: (1) Anacostia Economic Development Corporation; (2) Southeast Neighborhood Development Corporation; (3) Senior Citizen Counseling and Delivery Service; and (4) Southeast Neighborhood Council. The non-profit corporations are located in Anacostia, a geographic area in Southeast Washington, DC. SEAT was formed to meet the transportation needs of its four corporate shareholders.

---

1/ To the extent this application could be interpreted 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. 3502.

The Southeast Neighborhood Council (SNC) provides job training for residents of "Southeast." SNC often finds it difficult to locate entry-level job placements. The availability of transportation for SNC's clients to suburban work sites would provide more job placement opportunities for newly-trained individuals. The Southeast Neighborhood Development Corporation and the Anacostia Economic Development Corporation seek transportation that would act as a feeder service from inaccessible locations in the community to the Metro station now under construction at the intersection of Howard Road and Martin Luther King Jr. Avenue. The Senior Citizen Counseling and Delivery Service (SCCDS) seeks adequate transportation for the transportation-disadvantaged. Under Part A of its application, SEAT proposes to operate a "reverse commute" service from points in Southeast Washington, DC, to suburban worksites and return.

Mr. Hopkins testified that a large number of entry-level positions are available in the suburbs, but recruitment efforts by employers have been hindered by inadequate public transportation for District of Columbia residents. General special operations would also be performed. Part B of the application proposes service for persons who are transportation-disadvantaged.

The proposed operations would be conducted between the hours of 7 a.m. and 5 p.m., Monday through Saturday. The reverse commute service would operate on a fixed schedule (to be determined at a later date) having designated pick-up points at the Galilee Baptist Church, 2252 Minnesota Avenue, S.E., Washington, DC, and SCCDS, 2500 Martin Luther King Jr. Avenue, S.E., Washington, DC. Other points would be added as required. The reverse commute service would be operated primarily during morning and evening rush hours. During idle hours vehicles would be used to transport persons who are transportation-disadvantaged. Three 1990 vehicles having a manufacturer's designed seating capacity of 15 passengers or less would be used to perform the proposed operations. One of the vehicles would be equipped with lifts and tie downs to accommodate three non-ambulatory passengers plus two ambulatory passengers. Applicant plans to hire one part-time and three full-time drivers who would be responsible for daily vehicle checks. Major maintenance would be provided by service centers located in Southeast Washington. Drivers would be required to have driving experience and Red Cross training. Applicant plans to employ a secretary, scheduler, dispatcher, and part-time marketing specialist.

Rates proposed under Part A of the application for the reverse commute operations would be \$15 round trip with \$6.25 to be paid by the passenger and \$8.75 to be paid by the employer. Rates proposed under Part B of the application are:

Medicaid

One-way within Capital Beltway . . . . . \$25.00  
One-way outside Capital Beltway. . . . . \$25.00 Plus  
75¢ per  
loaded mile

Round trip within Capital Beltway. . . . . \$35.00  
Round trip outside the Capital Beltway . . . \$35.00 Plus  
75¢ per  
loaded mile

Cancellation Charges  
One-way. . . . . \$7.50  
Round trip . . . . . \$12.50

Additional manpower. . . . . \$5.00 per trip

Private Pay Rates:

One Way within the Capital Beltway . . . . . \$35.00  
One Way outside the Capital Beltway. . . . . \$35.00 Plus  
\$1 per  
loaded mile

Round trip within the Capital Beltway. . . . . \$50.00  
Round trip outside the Capital Beltway . . . \$50.00 Plus  
\$1 per  
loaded mile

Cancellation Charges  
One-way. . . . . \$10.00  
Round trip . . . . . \$15.00

Additional Manpower. . . . . \$ 7.50 per trip

Applicant submitted a balance sheet as of April 27, 1990, which shows \$15,000 cash, no liabilities, and \$15,000 equity. At hearing Mr. Hopkins testified that the corporation now has \$20,000 equity comprised of paid-in capital by the four shareholders. It is the intent of the shareholders to borrow \$152,000. Two of the shareholders, Anacostia Economic Development Corporation and Southeast Neighborhood Development Corporation, receive most of their funding from the District of Columbia Office of Business and Economic Development. This affiliation makes each of them eligible to draw up to \$150,000 from monies earmarked for venture capital during fiscal years 1990 and 1991. The applicant is also seeking contributions from foundations and corporations. SEAT has received a \$98,000 grant from the Urban Mass Transit Administration; however, none of that money can be used for equipment acquisition.

Mr. Hopkins testified that SEAT will comply with the Compact and the Commission's rules and regulations, including its safety regulations.

Mr. George Casey, human resources supervisor with Safeway Stores, Inc., headquartered in Landover, MD, testified in support of the application on Safeway's behalf. Safeway is interested in the reverse commute service proposed under Part A of the application. Safeway operates approximately 75 stores located in Washington, DC; Prince George's County, MD; and Alexandria, Arlington, and Fairfax, VA. <sup>2/</sup> Each store employs between 80 and 120 people. Annual turnover ranges between 20 and 200 percent. Mr. Casey testified that portions of the Metropolitan District have very low unemployment rates, making it difficult to hire people. Safeway has positions available in these areas and needs to identify persons willing to commute. However, Safeway is not eager to hire individuals who rely on existing public transportation because the arrangement historically has not been successful. Safeway also has a business interest in Southeast. Mr. Casey views the proposed reverse commute service as ". . . a reciprocating financial arrangement where we provide employment to an area where we are providing business to those people that may also be able to shop in our stores."

Ms. Coby Ann Jones, program coordinator for the Galilee Baptist Church's employment bank, testified on the church's behalf in support of the proposed reverse commute service. The church operates an employment referral service for its congregation. The program, which has been in existence for five years, attempts to match potential employees with employers who contact the bank regarding openings for persons with specific job qualifications. The witness testified that many of the parishioners are unemployed and lack personal transportation that would enable them to access jobs outside the District of Columbia. Employers have expressed a willingness to subsidize transportation of the reverse commuters.

Ms. Jennifer L. Buff, SCCDS's transportation coordinator, testified on its behalf in support of Parts A and B of the application. SCCDS is one of applicant's shareholders. SCCDS needs transportation for daily activities as well as medical appointments ("medicaid" and "private pay"). SCCDS's transportation requirements involve movements between points in the District of Columbia; Prince George's County, MD; Alexandria, Arlington, and Fairfax, VA. Between two and ten persons require transportation to and from health care facilities on a daily basis. Transportation for shopping trips is required four to five times a month for approximately 25 non-ambulatory persons. The witness plans a variety of recreational activities throughout the year. If this application is granted SCCDS would use SEAT's service regularly.

Ms. Gail Jernigan, administrator of the Washington Nursing Facility (WNF), testified on its behalf in support of Parts A and B of the application. WNF is a 320-bed facility in Southeast Washington.

---

<sup>2/</sup> For purposes of this application, "Fairfax, VA" is interpreted to include Fairfax County, Fairfax City, and Falls Church City. Thus, the description in the application would include all points in the Commonwealth of Virginia, except Washington Dulles International Airport, that are within the Metropolitan District.

In addition to overseeing all aspects of the facility, Ms. Jernigan arranges transportation for its residents. Residents, some of whom are eligible for Medicaid, require transportation to and from medical appointments and for recreational needs. Between June 1, 1990, and July 12, 1990, nursing home residents made 97 trips on business days to medical appointments, with additional trips made on weekends. Transportation is required primarily between points in the District of Columbia. However, the witness also receives requests for transportation to physicians' offices in Prince George's County, MD. The witness states that there is definite need for the proposed transportation inasmuch as existing transportation services are ill-equipped for use by the non-ambulatory. Recreational trips are currently confined to points in the District of Columbia because WNF is dependent upon transportation provided by the District. Recreational trips would be expanded into Virginia and Maryland if additional transportation were provided.

Ms. Janice Anderson, chief of program operations and research, Office of Health Care Financing for the District of Columbia Department of Human Services (OHCF) testified in support of Part B of the application. Ms. Anderson's office is responsible for the administration of the District of Columbia Medicaid program. Seventeen carriers currently provide transportation for non-ambulatory persons eligible to participate in the program. OHCF assigns work to these carriers based on a rotation system. Ms. Anderson would use applicant's services and would enroll SEAT as a Medicaid carrier if appropriate WMATC authority is obtained.

#### DISCUSSION AND CONCLUSIONS

This application is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove it is fit, willing, and able to perform properly the transportation for which it seeks a certificate of public convenience and necessity 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.

Based on a review of the entire record in this case, the Commission finds applicant to be capable of providing the proposed service and willing to conform to applicable rules, regulations, and requirements imposed under the Compact.

Applicant is a new corporation formed by four non-profit corporations. The corporations operate out of the Anacostia section of Southeast Washington, an area having a high rate of unemployment. SEAT hopes to remedy this situation by (1) offering a reverse commute service that would provide unemployed residents the means to travel to worksites located outside Southeast Washington in addition to offering general special operations and (2) providing service to transportation-disadvantaged residents. Applicant plans to operate three 15-passenger vehicles, one of which would be equipped for

non-ambulatory use. Arrangements have been made for regularly scheduled maintenance, repairs, daily safety inspections, and garaging. Applicant plans to hire only experienced drivers. SEAT's current financial condition, in addition to the eligibility of two of its shareholders for District of Columbia funds, places it in an adequate financial position to commence the proposed operations. Applicant's president is familiar with the Compact and the Commission's rules and regulations and testified that he would assure SEAT's compliance with them.

The Commission further finds that applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service based on the criteria enunciated in Pan-American Bus Lines Operation (1 MCC 190, 203 [1936]) et seq.

Part A of the application requests authority to perform special operations between points in Washington, DC; Prince George's County, MD; and Alexandria, Arlington, and Fairfax, VA. Applicant presented witnesses who support SEAT's request to perform reverse commute operations. A major area employer testified to the difficulties involved in finding employees to fill entry-level positions located in the suburbs. According to that witness, the difficulties are due, in part, to deficiencies in public transportation. Another witness who works with persons who need jobs, but are restricted in their search due to lack of personal transportation, supported SEAT's reverse commute proposal. Testimony was also presented supporting special operations transportation for recreational needs and shopping. No rates were listed in applicant's tariff for general special operations; applicant will be directed to amend its tariff to include such rates. Evidence of need was also provided regarding special operations transportation for the transportation-disadvantaged between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in Washington, DC, and Montgomery and Prince George's Counties, MD. Testimony of these witnesses show that existing transportation is insufficient. The evidence supports a need for transportation of non-ambulatory as well as ambulatory persons and persons who pay for transportation through the Medicaid program of the District of Columbia Department of Human Services as well as through private sources. The specific authority sought in Part B of this application is encompassed within Part A. Both are covered by the authority herein granted. The Commission further finds that the public need for the service will not be as well-served by existing carriers as by applicant and that the proposed operations will not materially affect the operations of existing carriers.

**THEREFORE, IT IS ORDERED:**

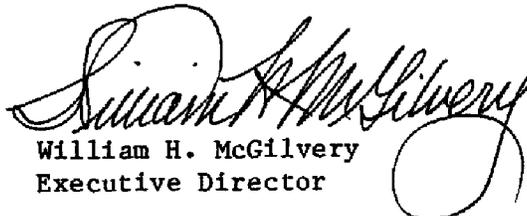
1. That South East Area Transit, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers in special operations between points in the Metropolitan District, excluding Washington Dulles International Airport, restricted against transportation solely within the Commonwealth of Virginia.

2. That South East Area Transit, Inc., is hereby directed to file with the Commission the following: (a) three copies of its WMATC Tariff No. 1, amended to include rates for special operations proposed in the application but for which rates were not included in the proposed tariff; (b) an equipment list specifying make, year, model, serial number, vehicle number, seating capacity, and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (c) evidence of ownership or, if appropriate, a lease in conformance with Regulation No. 69, for each vehicle to be used in revenue operations; (d) a certificate of insurance in accordance with Regulation No. 62; and (e) an affidavit of identification of vehicles pursuant to Regulation No. 67, for which purpose WMATC No. 171 is hereby assigned.

3. That unless South East Area Transit, Inc., 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 compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to South East Area Transit, Inc., in the form and as worded in the Appendix to this order.

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

  
William H. McGilvery  
Executive Director

NO. 171

SOUTH EAST AREA TRANSIT, INC.

By Order No. 3560 of the Washington Metropolitan Area Transit Commission issued September 21, 1990;

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. 3560;

THEREFORE, IT IS ORDERED that the said carrier be, and it 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:

IRREGULAR ROUTES

SPECIAL OPERATIONS transporting passengers between points in the Metropolitan District, excluding Washington Dulles International Airport,

RESTRICTED against transportation solely within the Commonwealth of Virginia.

AND IT 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.