

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3565

IN THE MATTER OF:

Served September 26, 1990

Application of JONES TRANSPORTATION)
SERVICES, INC., for an Expanded)
Certificate of Public Convenience)
and Necessity -- Charter and)
Special Operations)

Case No. AP-90-23

By application filed June 14, 1990, Jones Transportation Services, Inc. (Jones Transportation or applicant), seeks an expanded certificate of public convenience and necessity authorizing transportation of (a) passengers, together with mail, express, and baggage in the same vehicle as passengers, in charter operations between points in the Metropolitan District and; (b) transportation-disadvantaged persons in special operations between points in Metropolitan District 1/, restricted to transportation in vehicles having a manufacturer's designed seating capacity of 15 passengers or less (including the driver). The application was amended at hearing to delete "round trip" from Jones Transportation's request for charter authority.

A public hearing was held on Tuesday, July 31, 1990, pursuant to Order No. 3521, served June 22, 1990. Two operational witnesses and four public witnesses testified in support of the application. The application was protested by Mercy Ambulette Services, Inc., WMATC Carrier No. 149.

SUMMARY OF EVIDENCE

Jones Transportation currently holds WMATC Certificate No. 116 which authorizes the following transportation:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, transporting clients of the Bureau of Community Services, Mental Retardation and Developmental Disabilities Administration of the District of Columbia Department of Human Services

1/ To the extent the 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. 3521.

between points in the District of Columbia, on the one hand, and, on the other, points in the District of Columbia, Silver Spring, MD, and Prince George's County, MD;

RESTRICTED to transportation in vehicles with a manufacturer's designed seating capacity of 15 passengers or less (including the driver).

By this application Jones Transportation seeks to expand its operations to accommodate calls it receives from persons requesting service falling outside the scope of its current authority. Under its present authority applicant transports 100 to 130 passengers a day. Its existing obligation requires transportation in the morning and afternoon, leaving its fifteen vehicles available for the remainder of the day. These vehicles range in model year from 1981 through 1988. Five vehicles are equipped to transport four to twelve wheelchair-confined passengers. Twelve vehicles are owned by Jones Transportation, three are leased. Additional vehicles would be purchased if the requested authority is granted. Applicant engages in a regular program of preventive maintenance. Major repairs and maintenance are performed by an area service center. Drivers undergo an in-house training program that includes a week of supervised instruction on operation and safety. Drivers also receive instructions on passenger handling and care.

Applicant proposes to charge the following in its special operations:

Medicaid

Round Trip	\$35.00
One way	25.00
Cancellation fee	7.50
Each additional man	5.00 each way
\$.75 per loaded mile beyond the Capital Beltway	
Waiting time - \$5.00 per 15 minute period	

Non-Medicaid

Round trip	\$50.00
One way	30.00
Cancellation	7.50
Each additional man	5.00 each way
Passenger escort	7.50 each way
\$.75 per loaded mile beyond the Capital Beltway	
Waiting time - \$5.00 per 15 minute period	

Applicant proposes to charge the following fares in its charter operations:

Round trip	\$40.00 per hour (three-hour minimum)
One way	\$60.00 per hour
Cancellation fee	\$40.00 for cancellation notice of less than one hour before the trip

Parking fees and/or tolls incurred will be charged to the client in both charter and special operations. Applicant's hours of operation would be between 7 a.m. and 5 p.m., Monday through Saturday.

Applicant's existing WMATC Tariff No. 1 will remain in effect for services provided to the Bureau of Community Services, Mental Retardation and Developmental Disabilities Administration. Mr. Jones, applicant's president, testified that applicant is in compliance with the Compact and Commission rules and regulations, including its safety regulations, and plans continued compliance.

Mr. Ronald E. Holmes, staff accountant for Jones Transportation, testified regarding applicant's finances. Applicant's balance sheet as of December 31, 1989, shows current assets of \$102,463 and fixed and other assets of \$140,279. Current liabilities are listed of \$82,300; long-term liabilities of \$46,390; and stockholders equity of \$114,052, are also listed. Applicant's operating statement for 1989 shows income of \$860,250 and operating expenses including depreciation of \$810,526, resulting in net income before taxes of \$49,724. Applicant submitted a projection of revenue and expenses for its first year under the proposed operations which lists \$156,000 in revenue and expenses of \$144,295.

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 the proposed special operations. OHCF is responsible for the administration of the District of Columbia Medicaid program. The program serves approximately 98,000 enrollees, about 30,000 of whom requiring nonambulatory transportation. OHCF reviews applications for admission into the Medicaid program and determines whether the transportation requested is medically necessary. Seventeen carriers currently provide transportation for nonambulatory program participants. Ms. Anderson would enroll Jones Transportation as a Medicaid carrier if appropriate WMATC authority is obtained.

Ms. Mary L. Taylor supports the proposed charter and special operations. The witness testified on behalf of the Bureau of Community Services (BCS), located in Washington, DC. BCS provides a day program and residential and clinical services for 300 transportation-disadvantaged clients. Applicant's proposed special operations would be required throughout the Metropolitan District on a daily basis. There would be an occasional need for charter trips. Eighty percent of its clients are eligible for Medicaid. However, Medicaid will only pay for transportation to medical appointments and day-treatment programs. All other transportation is paid for by BCS.

Ms. Catherine E. Cooke testified in support of the proposed charter and special operations. Ms. Cook represented the D.C. Association for Retarded Citizens (ARC). ARC's headquarters and two branch facilities are located in Washington, DC. The organization acts as an advocate for citizens of the District who are mentally disabled. It also offers day treatment and residential programs. ARC serves 400 Medicaid, non-Medicaid, ambulatory, and nonambulatory individuals annually. Transportation in special operations between points in the Metropolitan District would be required daily. Charter services would be required 21 times a year. ARC is one of the facilities that Jones Transportation serves under its contract with the Bureau of Community Services. Applicant also performs additional transportation on a volunteer basis for ARC. ARC is currently limited in the number of recreational outings that it arranges due to the lack of available transportation.

Ms. Kate Whaley testified on behalf of the Greater Southeast Community Center for the Aging, Washington, DC, a subsidiary of the Greater Southeast Community Hospital. Ms. Whaley makes transportation arrangements for two adult day care centers, two nursing homes and a socialization program associated with St. Elizabeths Hospital. Approximately 770 ambulatory persons require transportation service. In an attempt to involve its clients in community activities, efforts have been made to sponsor an increased number of field trips. Its efforts, however, have not been fully successful due to the lack of adequate transportation. The Center operates one bus with a back up. Its lack of transportation has also caused a decrease in the number of program participants at one of its facilities. Transportation costs would be paid by Greater Southeast Center.

Mr. Clifford Cunningham, president of Mercy Ambulette Services, Inc., WMATC Carrier No. 149, cross-examined witnesses but did not present any evidence.

DISCUSSION AND CONCLUSIONS

In determining whether to grant or expand a certificate of public convenience and necessity, the Commission looks to Title II, Article XII, Section 4(b) of the Compact which requires that an applicant prove 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.

Based on a review of the record, we find Jones Transportation capable of providing the proposed transportation. Applicant's president has experience providing passenger transportation. Fifteen vehicles, including five equipped for nonambulatory use, would be used in the proposed operations. Additional vehicles would be acquired if the requested authority is granted. Financial data indicate adequate financing to sustain the proposed operations.

Uniform rates for all carriers providing certain services for nonambulatory Medicaid clients whose transportation is paid for by OHCF (represented at the public hearing by Ms. Janice Anderson) were promulgated by the Commission by Order No. 3415, served September 26, 1989. We have already held in that order that the rates charged OHCF for these services should be uniform. These rates do not include a charge for waiting time, as proposed here by applicant. In addition, applicant has provided no justification, financial or otherwise, for a variance from the promulgated rates. Accordingly, this aspect of applicant's proposed tariff will be denied, and applicant will be directed to file a tariff for OHCF Medicaid services consistent with the rates authorized by Order No. 3415.

Applicant's president indicated a willingness on the part of Jones Transportation to comply with the Compact and Commission rules and regulations and USDOT safety regulations.

The Commission has relied on the criteria set forth in Pan-American Bus Lines Operation, 1 MCC 190, 203 (1936), and its progeny to determine whether an applicant has satisfied its burden of proof that the public convenience and necessity require the proposed service. The witnesses expressed the need for the transport of transportation-disadvantaged persons, private pay and Medicaid, in special operations between points in the Metropolitan District. They also expressed a need for the proposed charter operations. However, applicant presented no evidence of any need to transport mail, express and baggage, and that aspect of this application will be denied. Although protestant appeared and cross-examined witnesses, it failed to present evidence at hearing that the proposed expanded operations were not needed. Protestant also failed to present evidence that the proposed service will endanger the operations of any existing carrier.

It is noted that PART B of the revised Certificate No. 116, appended hereto, encompasses the authority specified in existing Certificate No. 116 to transport mentally retarded and developmentally disabled passengers, because such persons meet the Commission's definition of "transportation-disadvantaged persons." 2/

THEREFORE, IT IS ORDERED:

1. That Jones Transportation Services, Inc., is hereby conditionally granted authority, contingent upon timely compliance, with the requirements of this order, to transport (a) passengers in charter operations between points in the Metropolitan District, and (b) transportation-disadvantaged passengers and their escorts in special operations between points in the Metropolitan District,

2/ "Transportation-disadvantaged person are those individuals who by reason of age, physical or mental disabilities are unable without special facilities or special planning or design to utilize transportation facilities and services and as effectively as persons who are not so affected." Order No. 2015, served August 7, 1979, at pp. 3 and 4.

restricted in (a) and (b) to transportation in vehicles having 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.

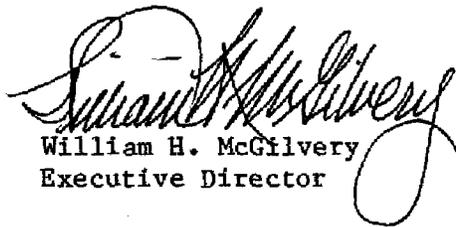
2. That, except to the extent granted herein, this application is denied.

3. That Jones Transportation Services, Inc., is hereby directed to file with the Commission (a) three copies of its WMATC Tariff No. 2 amended as directed in the text of this order; (b) an equipment list specifying make, model, serial number, vehicle identification number, and license plate number (with jurisdiction) for each vehicle to be used in WMATC operations; (c) evidence of ownership or lease in conformance with Commission Regulation No. 69 for each vehicle to be used in revenue operations; (d) an affidavit of identification of vehicles pursuant to Commission Regulation No. 67; and (e) a certificate of insurance in accordance with Commission Regulation No. 62.

4. That unless Jones Transportation Services, Inc., complies with the requirements of the preceding paragraph within 30 days from the date this order is issued 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.

5. That upon timely compliance with the requirements of this order, Jones Transportation Services, Inc., will be issued a revised Certificate of Public Convenience and Necessity No. 116 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. 116

JONES TRANSPORTATION SERVICES, INC.

By Order Nos. 2629, 2994, 3199, and 3565 of the Washington Metropolitan Area Transit Commission issued November 14, 1984; April 2, 1987; July 13, 1988, and September 26, 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 Nos. 2629, 2994, 3199, and 3565;

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:

PART A

CHARTER OPERATIONS, transporting passengers between points in the Metropolitan District; and

PART B

SPECIAL OPERATIONS, transporting transportation-disadvantaged passengers and their escorts between points in the Metropolitan District;

RESTRICTED in PARTS A and B above to transportation 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 this certificate.