

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3589

IN THE MATTER OF:

Served November 30, 1990

Application of NOSTALGIA TOURS, )  
INC., for a Certificate of Public )  
Convenience and Necessity -- )  
Charter Operations )

Case No. AP-90-34

By application filed August 15, 1990, Nostalgia Tours, Inc. (NTI or applicant), seeks a certificate of public convenience and necessity to transport passengers, together with mail, express, and baggage in the same vehicles as passengers, in charter operations between points in the Metropolitan District except transportation solely within the Commonwealth of Virginia.

Pursuant to Order Nos. 3543 and 3550, served August 20 and September 10, 1990, respectively, notice of this application was given and a public hearing on the matter was held October 4, 1990. One witness testified for applicant; four witnesses testified in support of the application. The application is uncontested.

SUMMARY OF EVIDENCE

Mr. Pierre A. Brenenstuhl, Sr., is applicant's president, sole shareholder, operations manager, and one of its directors. NTI is a newly-formed Delaware corporation registered to do business in Maryland, the District of Columbia, and Virginia. Its remaining officers and directors are members of Mr. Brenenstuhl's immediate family. Mr. Brenenstuhl's responsibilities as operations manager include oversight of applicant's total day-to-day operations including marketing, safety, vehicle maintenance, and driver training. Mr. Brenenstuhl has varied experience in the bus business, having worked as a street car and bus operator for DC Transit and Virginia Trailways and as safety director for Eyre Bus Service, Inc. He also conceptualized, implemented, and continues to own and operate "Pro-Drive," a consulting company specializing in safety compliance and driver training for small bus companies. Currently Mr. Brenenstuhl supplies personnel and manages certain scheduled coach service provided by the Metropolitan Washington Airports Authority (MWAA).

For several years, the witness has wanted to refurbish an older coach and market it in the industry. He believes the time is right to do that because people ". . . from the 40's and 50's now have leisure time and time to travel and they are looking for nostalgic places to go and nostalgic vehicles to see and ride on." Mr. Brenenstuhl believes there is a need for this service. During the short time he has been working with MWAA, he has had requests for such service. He has

contacted tour operators, tour companies, and associations such as the American Legion. According to the witness, all are eager to have something new and different to offer their clients and members. He envisions the service as one that would be used in charter operations for special events including parties and weddings, convention-related transportation, tours, or any travel where such a vehicle would be the coach of choice.

Initially NTI would conduct the proposed service using one 1954, 44-passenger "Scenicruiser." This model vehicle was designed "right down to its paint job" by the well-known designer Raymond F. Loewy and built exclusively for Greyhound. According to Mr. Brenenstuhl this particular model has great "nostalgic value" and made Greyhound's reputation. The witness testified that when Greyhound began retiring its Scenicruisers in order to substitute a different model, the public "almost refused to quit riding them[;] [t]hey rode the old bus, if a new bus showed up, they didn't get on . . . ." The particular vehicle NTI proposes to use was still in service when applicant purchased it. NTI had the vehicle mechanically renovated and physically restored by National Coach Works, Inc. (NCW). The vehicle conforms with modern safety requirements and has passed inspection. The vehicle has a large baggage area; it is air-conditioned and will be equipped with television and a public address system. The vehicle will be garaged in Montgomery County, MD, where applicant has leased space for an office and parking. The leased space is in a facility equipped for vehicle washing, waste disposal and repair work. Applicant plans a three-stage preventive maintenance program. The vehicle would be lubricated and all components checked every 4,000 miles; fluids would be changed every 6,000 miles; and the vehicle would be completely overhauled with aging parts replaced every 16,000 miles. NCW would perform this work initially. Applicant has no safety rating from the United States Department of Transportation (USDOT). However, Mr. Brenenstuhl has asked for a safety audit including vehicle inspection. Mr. Brenenstuhl testified that the coach is currently in safe and sound mechanical condition, and he anticipates no trouble keeping it that way. Because the vehicle is a classic, experienced mechanics solicit his business. Moreover, the engine, drivetrain, and various other mechanical components are new and currently in production. The only repair problem the witness could foresee is the replacement of sheet metal parts, and NTI has parts that it could use to fashion what is needed. Mr. Brenenstuhl has two vehicles available for restoration as the volume of NTI's work increases. The witness testified that it is possible NTI will use a more modern coach to pursue a nostalgic theme on longer trips. For such trips applicant would use the type of intercity motorcoach that Greyhound has in service today.

Applicant would employ two drivers, one full time and one stand-by. Initial drivers would both be former Scenicruiser drivers. When hiring drivers, the witness looks for professional driving experience, general stability, good health, and a sound driving record containing "absolutely no history of driving errors or poor driving." Each employee is "road-tested" and undergoes in-service training regardless of experience. NTI would hire Pro-Drive for in-service training including defensive driving and instruction in the mechanical

"work-up" of the bus to enable drivers to identify problems. In addition drivers are monitored on the road. Any driver who has two chargeable accidents is discharged; a driver having one serious accident, whether chargeable or non-chargeable, might also be discharged depending on circumstances.

NTI proposes to charge \$55 an hour with a five-hour minimum. No additional positioning charge or deadhead charge would be billed if the total trip, including both live miles and deadhead, is five hours or less. After five hours a charge for deadhead mileage would accrue at \$55 an hour. Applicant proposes a transfer rate of \$275. The rate would be applicable to transfers between any two points in the Metropolitan District and would include one hour after the scheduled pick-up time for loading and unloading. A waiting charge of \$38 an hour or portion thereof would be charged after that. No positioning charge would attach to transfer rates. The witness agreed to amend Nos. 100, 105, and 110 of applicant's tariff to make these intentions specific.

The witness is familiar with the Compact, Commission rules and regulations, and USDOT safety regulations and intends to assure applicant's compliance with them.

With its application, NTI submitted a balance sheet as of July 31, 1990, listing "Total Assets" of \$15,000 ("cash 1,000[,], vehicles 14,000") and "Total Liabilities and Capital" of \$15,000 ("N/P-Stockholder 14,000[,], Total Liabilities 14,000[,], Paid-In Capital 1,000"). For the first 12 months of operations applicant projects revenue of \$120,000 and expenses of 102,800 including a depreciation expense of \$2,800 and maintenance expense of \$20,000. Applicant projects that insurance will cost \$15,000. At hearing Mr. Brenenstuhl testified that the \$14,000 in assets represents one undepreciated vehicle exclusive of the cost of refurbishment, and the \$14,000 liability represents one shareholder loan by the witness to the company. The loan is not a current liability and is due only when the company is making a profit. Mr. Brenenstuhl personally will be the corporation's source of capital. Since July 31, 1990, an additional \$15,000 capital has been placed in the company, and the witness intends to fund the company up to \$50,000 during the first year. Mr. Brenenstuhl testified that his loans to the company are made in the belief that he will make the money back through the company's profit; he takes back no note or document of any kind regarding the loans. Mr. Brenenstuhl testified further that the financial projection represented revenues based on 300 days of use at five hours a day. 1/ The maintenance figure includes actual maintenance, repairs, and the cost of adding television and a public address system to the Scenicruiser.

Ms. Elaine Curl, owner and president of the Convention Store, Inc., testified on its behalf in support of the application. Convention Store designs and manages shuttle bus operations throughout

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1/ It would appear that non-WMATC revenue is included in the projection.

the country for conventions and special events. Its typical transportation needs entail service to conventions averaging 10,000 attendants. In the Washington area its business is slightly different for two reasons. First, because Convention Store's home office is in the District of Columbia, the company becomes involved in smaller jobs -- eg., tours, transfers, airport work, transporting board members (both in conjunction with convention business and separately). Second, Convention Store has a formal agreement with Courtesy Associates, Inc., whereby Convention Store handles all Courtesy's transportation arrangements involving buses. Courtesy specializes in intensive group work and specialized tours. Thus, Convention Store, among other things, arranges transportation between the Metropolitan District airports and downtown Washington, shuttles groups to meeting locations (usually the Convention Center), among hotels and to evening activities, and performs specialty work for Courtesy's account. Although Convention Store can often use just one more bus when arranging transportation for large convention and trade shows, Convention Store has never been unable to obtain the equipment it needs within the Metropolitan District. Convention Store supports NTI's application primarily because of the vintage vehicles it intends to operate. Unusual equipment is at a premium in the Metropolitan District. Ms. Curl could have used NTI's vintage vehicles twice in the two months immediately preceding the hearing. Convention Store would like to have a few vintage vehicles or other unusual coaches available for special occasions. If this application were granted, Convention Store would use such vehicles approximately six times a year, in some cases for multiple days.

Mr. William Rohrbaugh, president and owner of Bill Rohrbaugh's Charter Service, Inc. (Rohrbaugh's Charter), testified on its behalf in support of the application. Rohrbaugh's Charter holds WMATC Certificate No. 158 authorizing it to transport passengers between points in the Metropolitan District. The witness testified that Rohrbaugh's Charter has always been able to provide service within the Metropolitan District using its own coaches. However, because Rohrbaugh Charter's business is growing and its work is somewhat seasonal, the witness can foresee that it might need to use NTI occasionally. Mr. Rohrbaugh believes there are groups that would be interested in a Scenicruiser for point-to-point sightseeing tours or transfers within the Metropolitan District. The witness believes there is a need for an additional certificated carrier in the Metropolitan District. If this application were granted, Rohrbaugh's Charter would ". . . consider calling applicant from time to time to provide transportation."

Mr. Wayne Allen, operations manager, for Pro-Drive Management Systems, Inc. (PMSI), testified on its behalf in support of the application. PMSI is owned by Mr. Brenenstuhl and, as previously noted, supplies personnel and manages certain scheduled service conducted by MWAA between Washington National Airport, Arlington County, VA, and Washington Dulles International Airport, Loudoun County, VA, on the one hand, and, on the other, specific points in Washington, DC, and Bethesda, MD. In the course of overseeing these

operations PMSI receives inquiries from members of the general public regarding this and other available transportation. PMSI owns no equipment and holds no operating rights. Upon receiving inquiries, PMSI either arranges the requested transportation through WMATC-certificated carriers or refers callers to such carriers so they may make their own arrangements. Mr. Allen doesn't know what happens after referrals. He does know that some callers are unhappy that PMSI cannot provide service. 2/ PMSI supports NTI's application because it could use additional service from time to time when booking service for a group requiring airport transfers, plus additional charter work (which is performed by other WMATC-certificated carriers).

Mr. Alban Smith, general manager of DC Tours and owner of Tourmasters, testified in support of the application on behalf of those entities. Both DC Tours and Tourmasters are tour operators which require charter transportation. DC Tours emphasizes specialized convention work. Tourmasters devises, markets, and implements tour packages for school groups only. The two companies combined might charter as many as 700 buses a year. According to Mr. Smith a Scenicruiser would be suitable for charter trips within the Metropolitan District. If this application were granted, Tourmasters and DC Tours would use NTI, although Mr. Smith could not project how frequently.

#### DISCUSSION AND CONCLUSIONS

This application 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 an applicant prove the proposed service is required by the public convenience and necessity. After reviewing the entire record in this case, the Commission finds that NTI has met its statutory burden insofar as it relates to charter transportation of passengers, together with their baggage, in vintage vehicles. Accordingly, to this extent the application will be granted. In all other respects the application shall be denied.

The service would be provided in vintage vehicles mechanically refurbished and physically restored. The vehicles would be readily identifiable as ones formerly available for mass transit during a by-gone era. In short, the vehicles would be appropriate to specialized charter transportation in the local area as a result of their nostalgic value. The vehicles would conform with all modern safety requirements and would be monitored according to a three-stage preventive maintenance program. In this respect, the Commission notes that applicant's president has, individually and through a separate

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2/ It is noted that PMSI has no application pending and no present capability to provide charter service.

corporation, done extensive education in vehicle safety and driver training. Moreover, applicant has requested a safety audit and vehicle inspection by USDOT. Applicant's vehicles would be garaged within the Metropolitan District in a facility equipped for one-site vehicle maintenance and repairs. NTI's drivers would be experienced, appropriately trained, and adequately monitored. Applicant's financing is sparse. However, it is sufficient to initiate the limited operations authorized herein. The record indicates that applicant through its president is familiar with the Compact and the Commission's rules and regulations, including its safety regulations, and will comply therewith.

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 Operations (1 M.C.C. 190, 203, [1936]) et seq. The testimony of applicant's public witnesses taken as a whole demonstrates a need for charter transportation in the specialized vehicles proposed. No carrier in the Metropolitan District operates the type vehicles applicant would use initially, nor does any carrier, with the exception of Old Town Trolley Tours of Washington, Inc., operate vintage-type vehicles. However, the Commission notes that Old Town Trolley (1) operates vehicles different from those applicant proposes to use and (2) has registered no objection to this application. Thus, the application as granted would meet a need in the current market. Due to the specialized nature of the service, the public will not be served as well by existing carriers as by applicant, and the proposed operations will not materially affect the operations of existing carriers. Transportation of passengers' baggage is an ordinary adjunct of charter service as proposed herein; however, applicant provided no evidence of need for transportation of mail and express, and that aspect of this application will be denied.

THEREFORE, IT IS ORDERED:

1. That Nostalgia Tours, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers, together with their baggage, in charter operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, restricted to transportation in vintage or vintage-type vehicles.
2. That, except to the extent granted herein, the application is denied.
3. That Nostalgia Tours, 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. 175 is hereby assigned; (b) an equipment list indicating make, year, model, serial number, vehicle number (if any), seating capacity, and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (c) three copies of its WMATC Tariff No. 1 amended as discussed in the

body of this order; (d) a certificate of insurance in accordance with Commission Regulation No. 62; and (e) evidence of ownership or a lease in accordance with Commission Regulation No. 69, as appropriate, for each vehicle to be used in revenue service.

4. That unless Nostalgia Tours, 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 effective upon expiration of the said compliance time.

5. That upon timely compliance with the conditions set forth in the preceding paragraphs, a certificate of public and convenience and necessity will be issued to Nostalgia Tours, Inc., in the form and as worded in the Appendix to this order.

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



William H. McGilvery  
Executive Director

NO. 175

NOSTALGIA TOURS, INC.

By Order No. 3589 of the Washington Metropolitan Area Transit Commission issued November 30, 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. 3589;

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:

IRREGULAR ROUTES

CHARTER OPERATIONS transporting passengers, together with their baggage, between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia.

RESTRICTED to transportation in mechanically-sound vintage or vintage-type vehicles.

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.