

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3639

IN THE MATTER OF:

Served March 25, 1991

Application of ROSETTA D. MURRAY)
Trading as MURRAY'S NON-EMERGENCY)
TRANSPORT SERVICE for an Expanded)
Certificate No. 63 -- Charter and)
Special Operations)

Case No. AP-90-41

Application of ROSETTA D. MURRAY)
Trading as MURRAY'S NON-EMERGENCY)
TRANSPORT SERVICE to Transfer)
Certificate No. 63 to MURRAY'S)
TRANSPORTATION SERVICE, INC.)

Case No. AP-90-42

Investigation Concerning Issuance)
of Certificates of Authority)

Case No. MP-91-02

By application filed September 7, 1990, in Case No. AP-90-41, Rosetta D. Murray trading as Murray's Non-Emergency Transport Service (Ms. Murray or applicant) seeks to expand Certificate of Public Convenience and Necessity No. 63 to include the transportation of passengers in (1) special operations, round-trip or one-way, between health care facilities in the Metropolitan District, on the one hand, and, on the other, points in the Metropolitan District, restricted to participants in the District of Columbia Medicaid program and (2) charter operations between points in the Metropolitan District. Applicant proposes to transport mail, express, and baggage in the same vehicles with passengers.

Ms. Murray currently holds Certificate of Public Convenience and Necessity No. 63, authorizing the following transportation:

IRREGULAR ROUTES:

SPECIAL OPERATIONS, limited to transportation-disadvantaged persons and their attendants between points within the Metropolitan District.

RESTRICTED against the transportation of participants in the District of Columbia Department of Human Resources Medicaid Program.

RESTRICTED to the performance of such operations in vehicles with a manufacturer's designed seating capacity of fifteen passengers or less, excluding the driver, with each vehicle containing at least two wheelchair tie-downs.

In addition, applicant currently holds four Special Authorizations issued pursuant to WMATC Special Certificate of Public Convenience and Necessity No. 1, each authorizing transportation pursuant to a specific contract with a government agency. Applicant also holds temporary authority issued pursuant to Order No. 3628, served March 15, 1991, in Case No. AP-91-07, to conduct certain transportation for the United States Department of Veterans Affairs.

By application filed September 7, 1990, in Case No. AP-90-42, Ms. Murray seeks authority to transfer Certificate No. 63 to Murray's Transportation Service, Inc. (Murray's, Inc.), a District of Columbia corporation owned by Ms. Murray.

By Order No. 3553 served September 14, 1990, the matters were consolidated for public hearing. In Case No. AP-90-41 the issues to be determined are (1) whether applicant is fit, willing, and able to perform the proposed service properly and comply with the Compact and the Commission's rules and regulations and (2) whether the public convenience and necessity require the proposed service. In Case No. AP-90-42 the issue to be determined is whether the transfer is consistent with the public interest.

A hearing in the consolidated cases was held on November 13, 1990. At hearing, one issue that arose and remained pending until recently concerned Ms. Murray's safety rating as assigned by the United States Department of Transportation (USDOT). Ms. Murray testified that USDOT had never given her a safety rating. Evidence introduced by staff and made available to her and her counsel the day of the hearing indicated otherwise. On February 28, 1991, the rating was confirmed as "Satisfactory."

On February 1, 1991, certain amendments to the Compact ^{1/} became effective. The Compact, as amended, Title II, Article XI, Section 6 provides:

6. (a) A person may not engage in transportation subject to this Act unless there is in force a 'Certificate of Authority' issued by the Commission authorizing the person to engage in that transportation.

(b) On the effective date of this Act a person engaged in transportation subject to this Act under an existing 'Certificate of Public Convenience and Necessity' or order issued by the Commission shall be issued a new 'Certificate of Authority' within 120 days after the effective date of this amendment.

(c)(i) Pending issuance of the new Certificate of Authority, the continuance of operations shall be permitted under an existing certificate or order issued by the Commission which will continue in effect on the effective date of this Act.

^{1/} See Public Law 101-505, 104 Stat. 1300.

Certificate of Public Convenience and Necessity No. 63 issued to Rosetta D. Murray trading as Murray's Non-Emergency Transport Service authorizes only irregular route transportation. Accordingly, Ms. Murray is entitled to be issued a Certificate of Authority authorizing irregular route transportation coextensive with the Commission's jurisdiction in the Washington Metropolitan Area Transit District. Certificate of Authority No. 63 will supersede Certificate of Public Convenience and Necessity No. 63 and any and all temporary authority and Special Authorizations issued to Ms. Murray pursuant to Special Certificate of Public Convenience and Necessity No. 1. Conversion of Ms. Murray's Certificate of Public Convenience and Necessity into an Certificate of Authority moots the necessity of deciding the issues raised in Case No. AP-91-41 2/ and leaves only the matter of the transfer raised in Case No. AP-91-42.

Case No. AP-91-42 was filed prior to the effective date of the Compact amendments discussed above. At the time the case was filed, it was governed by the Compact, Title II, Article XII, Section 4(h) requiring that a transfer be approved only when the Commission finds the transfer to be consistent with the public interest. The case will be decided pursuant to the Compact (as amended), Title II, Article XI, Section 11(a), requiring the same finding. We turn now to the merits of the transfer application. No issue exists as to the dormancy of the certificate to be transferred. Ms. Murray (transferor) is a sole proprietor, and Murray's, Inc. (transferee), is a corporation wholly owned by Ms. Murray and wholly controlled by Ms. Murray and her family. There is no indication that, should this application be granted, Murray's, Inc., would not continue service in the same manner in which it is currently provided. A review of the record in this case indicates that the financial position of the transferee is sound. Taking official notice of its records, the Commission notes that no complaints have been made regarding the operations of either the transferor or transferee. Accordingly, we find that the requested transfer of Certificate of Public Convenience and Necessity No. 63 is consistent with the public interest, and, based upon the evidence of record, the application will be granted. 3/

Certificate of Public Convenience and Necessity No. 63 will be transferred from Ms. Murray to Murray's, Inc. Certificate of Public Convenience and Necessity No. 63, once transferred, will be converted to Certificate of Authority No. 63. As discussed above, Certificate of Authority No. 63 will be issued to Murray's, Inc.

2/ Ms. Murray filed a redundant application for a Certificate of Authority on February 19, 1991. That application is hereby dismissed as moot.

3/ Ms. Murray filed a redundant transfer application on February 19, 1991. That application is hereby dismissed as moot.

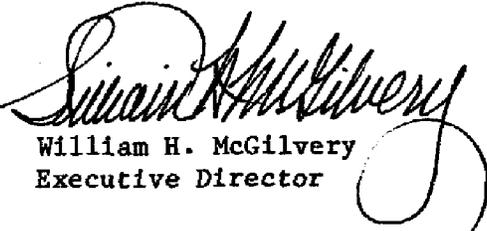
THEREFORE, IT IS ORDERED:

1. That the application of Rosetta D. Murray trading as Murray's Non-Emergency Transport Service, to transfer Certificate of Public Convenience and Necessity No. 63 to Murray's Transportation Service, Inc., is hereby granted.

2. That Murray's Transportation Service, Inc., is hereby directed, within 30 days of the date of this order or such additional time as the Commission may direct or allow, to (a) acquire and file evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) file five copies of its tariffs in accordance with Commission Regulation No. 55; (c) file an equipment list stating the make, model, serial number, vehicle number, license plate number (with jurisdiction), and seating capacity of each vehicle to be used in revenue operations in the Metropolitan District; (d) file, for each vehicle to be used in revenue operations in the Metropolitan District, evidence of ownership or a lease as required by Commission Regulation No. 62; and (e) file its official business address as discussed in Commission Regulation No. 68.

3. That upon compliance with the requirements of the preceding paragraph and acceptance of the tariff materials by the Commission, Certificate of Authority No. 63 will be issued to Murray's Transportation Service, 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

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

CERTIFICATE OF AUTHORITY

NO. 63

Murray's Transportation Service, Inc.
3031 - 18th Street, N.E.
Washington, DC 20018

By Order Nos. 2015 and 3639 of the Washington Metropolitan Area Transit Commission, issued August 7, 1979; and March 25, 1991, respectively;

WHEREAS, the above-named carrier is entitled to receive authority to transport passengers within the Washington Metropolitan Area Transit District;

THIS CERTIFICATE OF AUTHORITY is hereby issued to the said carrier as evidence of the authority to engage in the for-hire transportation of passengers 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:

IRREGULAR ROUTES, transporting passengers, together with mail, express, and baggage in the same vehicles as passengers, between points in the Washington Metropolitan Area Transit District;

RESTRICTED TO operations conducted according to the said carrier's applicable tariff on file with the Commission; and

RESTRICTED AGAINST (1) transportation solely within the Commonwealth of Virginia and (2) any passenger transportation for hire on an individual fare paying basis in competition with any existing, scheduled, regular-route, passenger transportation service performed by, or under a contract with, the Federal Government, a signatory to the Compact, a political subdivision of a signatory, or the Washington Metropolitan Area Transit Authority.

THIS CERTIFICATE OF AUTHORITY DOES NOT AUTHORIZE ANY TRANSPORTATION BY ANY PERSON OTHER THAN THE CARRIER NAMED HEREON.

THIS CERTIFICATE OF AUTHORITY IS NOT VALID UNLESS THE CARRIER NAMED HEREON IS IN COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THE COMMISSION.

CERTIFICATE OF AUTHORITY NO. 63
Murray's Transportation Service, Inc.
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IT IS A FURTHER CONDITION of this certificate of authority that the carrier named hereon shall (a) provide safe and adequate transportation service, equipment, and facilities and (b) observe and enforce Commission regulations.