

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3792

IN THE MATTER OF:

Served July 15, 1991

Application of TRAILWAYS COMMUTER)
TRANSIT, INC., for a Certificate of)
Authority -- Irregular Route)
Operations)

Case No. AP-91-05

Application of GREYHOUND LINES,)
INC., for Approval of Control)
Relationship -- TRAILWAYS COMMUTER)
TRANSIT, INC.)

Case No. AP-91-06

By application filed January 30, 1991, as supplemented February 4, 1991, Trailways Commuter Transit, Inc. (TCT or applicant), seeks a Certificate of Authority to transport passengers in irregular route operations between points in the Metropolitan District.

TCT is a wholly-owned subsidiary of Greyhound Lines, Inc. (GLI), and by application filed January 30, 1991, GLI requests that the Commission approve its control of TCT pursuant to the Compact, Title II, Article XII, Section 3. The two applications will be decided jointly in this order.

Order No. 3611, served February 21, 1991, gave notice of TCT's application for a certificate. Order No. 3611, which is incorporated herein by reference, directed TCT to publish notice of its application in a newspaper of general circulation in the Metropolitan District and post notice of its application in its revenue vehicles through March 25, 1991, the protest date in Case No. AP-91-05. TCT was further directed to file an affidavit of such publication and posting. Order No. 3621, served March 7, 1991, directed GLI and TCT jointly to publish notice of GLI's application for approval of its control relationship with TCT and to post notice of GLI's application in each of their revenue vehicles through April 8, 1991, the protest date in Case No. AP-91-06. Both companies were directed to file affidavits of publication and posting. The affidavits have been filed, and both cases stand unprotested. No person requested a hearing in either matter. Therefore, the matters are now ripe for decision.

SUMMARY OF EVIDENCE

TCT is a Texas corporation, the stock of which is wholly-owned by GLI. All officers and directors are located in Dallas, TX. It would appear from their business addresses that, with three exceptions, all have some position with GLI. Those appearing to have positions with GLI include its president, all vice presidents, secretary, and treasurer.

TCT proposes to transport passengers for hire over irregular routes between points in the Metropolitan District. The transportation would include service under contract with Montgomery County, MD (the County). The proposed service represents Route Nos. 3, 4, 10, 14, 18, and 25 and the "MARC Shuttle" of the County's "Ride-On" system. The service is scheduled, and TCT is currently conducting this service pursuant to temporary authority granted by Order No. 3615, served February 26, 1991. The proposed transportation would be initiated using 22 vehicles, each having a manufacturer's designed seating capacity of 21 passengers. These vehicles would be leased from GLI.

Vehicles are checked daily for defects and needed fluids. Preventive maintenance, customized for each vehicle, will be performed on a 4,000-mile schedule. Four reserve vehicles are available. Repairs and maintenance will be performed at a maintenance facility in downtown Washington that is owned and operated by GLI. Drivers would be at least 24 years old, have a driving record in conformance with set criteria, pass a thorough physical examination including drug testing, and be fluent in English. Employment history and driving records would be investigated and verified. Drivers would have classroom training, on-the-road defensive driving exercises, ongoing monthly training, and periodic monitoring.

TCT has not been assigned a safety rating by the United States Department of Transportation (USDOT). However, applicant's regional general manager certifies on TCT's behalf that it has access to and is familiar with all USDOT regulations relating to safe operation of commercial vehicles and safe transportation of passengers for hire and will comply with those regulations. Applicant's president certifies on TCT's behalf that TCT has access to and is familiar with the Compact and the Commission's rules and regulations, that it will comply with them, and that there are no proceedings, either completed or pending, in which TCT has been found unfit or in which its fitness is under investigation by this Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the Interstate Commerce Commission, or USDOT.

With its application, TCT filed balance sheets as of December 31, 1989 and 1990. On analysis and inquiry by the Commission staff, it was determined that these financial statements, as well as the operating statement for 1990, were based on unaudited data and differed from the statements prepared by the independent public accountants, Arthur Andersen & Co. Mr. Greg Marshall, Director of Finance at TCT, filed a copy of the audited financial statements with WMATC on June 24, 1991. The major differences occurred in the accounts with affiliated companies and in a liability account called "Self Insurance Reserve"; also, the audit report supplied the information that on June 4, 1990, TCT filed a voluntary petition for relief under Chapter 11 of the U.S. Bankruptcy Code (the same date as the filing by its parent company, Greyhound Lines, Inc.). TCT is now operating as Debtor-In-Possession, under control of the Bankruptcy Court in Brownsville, TX.

Audited figures for the years 1989 and 1990 showed net operating income (before interest, reorganization costs, and provision for income taxes) of \$1,806,000 and \$3,127,000 with operating revenues of \$25,956,000 and \$26,810,000, respectively. These figures produced an operating ratio for 1989 of 93 percent, and for 1990 of 88.3 percent. It is noted that TCT, in its Projection of Revenue and Revenue Deductions for the first twelve months of WMATC operations, estimated net operating income of \$115,638 on revenue of \$1,657,480 for an operating ratio of 93 percent.

Cash flow experienced by TCT in 1989 was positive, with a net increase in cash and cash equivalents of \$1,338,000. However, for 1990, due to abnormalities involving operations of GLI and adjustments to close out the balance in the Self Insurance Reserve and to adjust intercompany accounts, TCT experienced negative cash flow of \$1,214,000.

Working capital at December 31, 1989, with current assets of \$6,712,000 and current liabilities of \$5,621,000, produced a ratio of \$1.19 of assets to \$1.00 of liabilities. At December 31, 1990, however, working capital was negative -- current assets of \$5,602,000 against current debt of \$7,634,000, a ratio of 73¢ to \$1.00. This result is distorted by the situation involving TCT's bus-leasing arrangement in Dallas. Ordinarily the current liability under that lease would be about \$862,000 at December 31, 1990. However, because that lease arrangement may be terminated in November 1991, the entire obligation was classified by the auditors as current debt in the amount of \$6,358,000. If the long-term portion were removed from current debt (\$6,358,000 minus \$862,000 equals \$5,496,000), the working capital picture would show a current asset total of \$5,602,000 against current debt of \$2,138,000, for a comfortable ratio of 2.6 to 1. If "Pre-petition Liabilities Subject to Compromise" were classified as current debt (\$1,428,000), the working capital ratio would be 1.55 to 1. Stockholder's Equity in TCT increased from \$1,831,000 at December 31, 1989, to \$3,391,000 at December 31, 1990.

In support of the application, TCT's regional general manager states that TCT was formed for the purpose of operating commuter service in Dallas, TX, and has done so for many years. According to TCT's representative, GLI has determined that certain operations currently conducted by GLI in Montgomery County, MD, should be conducted by TCT. TCT's representative states that in three years GLI has transported approximately 75,000 passengers a month in the Montgomery County operations at issue in Case No. AP-91-05. The witness asserts that provision of this service has made travel within the County convenient and economical for businessmen, shoppers, and tourists. The service has reduced the number of cars on County roads, thereby reducing the demand for energy and improving the environment and the quality of life in the County. TCT's representative posits that these same benefits will continue if its application is granted.

In support of its request in Case No. AP-90-06 GLI states, by its attorney, that it is a motor common carrier of passengers headquartered at 901 Main Street, Dallas, TX, and is authorized to

transport passengers between points in the Metropolitan District pursuant to WMATC Certificate No. 139. TCT is a wholly-owned subsidiary of GLI with headquarters at 315 Continental Avenue, Dallas, TX. TCT was incorporated in 1984 for the purpose of operating commuter service in Dallas. As part of an "ongoing reorganization," GLI has determined that TCT, rather than GLI directly, should perform certain service for the account of Montgomery County, MD. The service is in the nature of contract commuter service and was formerly performed by GLI. Thus, TCT proposes to become a carrier operating in the Metropolitan District controlled by GLI, another carrier with WMATC authority. It is that control relationship that GLI asks the Commission to approve. The application asserts that approval of the control relationship will allow GLI to further its effort to consolidate commuter operations in TCT. In GLI's opinion this should result in a more experienced operation and in more responsive service to the public.

It is asserted that the change of the Montgomery County operations from GLI to TCT is expected to have no adverse public interest ramifications inasmuch as scope of operations and quality of service rendered will not change. The public interest will be served by the substitution of a bus line specializing in commuter passenger service (TCT) for one specializing in intercity service (GLI).

DISCUSSION AND CONCLUSIONS

Case No. AP-91-05 is governed by the Compact, Title II, Article XI, Section 7(a) which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant, . . . if it finds that -

- (i) the applicant is fit, willing, and able to perform that transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and
- (ii) that the transportation is consistent with the public interest.

Based on a thorough review of the record in this case, the Commission finds applicant to be fit, willing, and able to perform the transportation properly and to conform to applicable regulatory requirements. The Commission further finds that the proposed transportation is consistent with the public interest.

Case No. AP-91-06 is governed by the Compact, Title II, Article XII, Section 3 which provides that:

A carrier or any person controlling, controlled by, or under common control with a carrier shall obtain Commission approval to--

- (i) consolidate or merge any part of the ownership, management, or operation of its property or franchise with a carrier that operates in the Metropolitan District;

(ii) purchase, lease, or contract to operate a substantial part of the property or franchise of another carrier that operates in the Metropolitan District; or

(iii) acquire control of another carrier that operates in the Metropolitan District through ownership of its stock or other means.

Where authorization for any of the above is required the Commission must find the transaction to be consistent with the public interest. The Commission is satisfied that the standard has been met in this case.

THEREFORE, IT IS ORDERED:

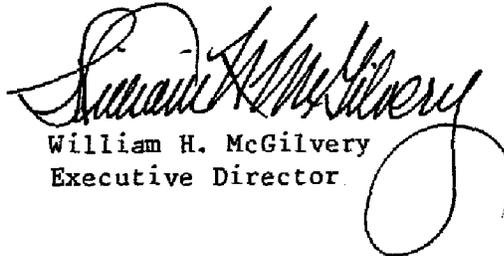
1. That Trailways Commuter Transit, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers in irregular route operations between points in the Metropolitan District.

2. That Trailways Commuter Transit, Inc., is hereby directed, within 30 days of this order or such additional time as the Commission may direct or allow, to have file with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) three copies of its tariff(s) in accordance with Commission Regulation No. 55; (c) an equipment list stating the year, 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) 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; (e) its official business address as discussed in Commission Regulation No. 68; and (f) an affidavit of identification of vehicles pursuant to Commission Regulation No. 61 for which purpose WMATC No. 184 is hereby

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the materials required by the Commission, Certificate of Authority No. 184 shall be issued to Trailways Commuter Transit, Inc., as appended to this order.

4. That the application of Greyhound Lines, Inc., in Case No. AP-91-06 is hereby granted.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS SCHIFTER AND SHANNON:


William H. McGilvery
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

CERTIFICATE OF AUTHORITY

NO. 184

Trailways Commuter Transit, Inc.

By Order No. 3792 of the Washington Metropolitan Area Transit Commission issued July 15, 1991;

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 named 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 named carrier:

IRREGULAR ROUTES, transporting passengers between points in the Washington Metropolitan Area Transit District;

RESTRICTED TO operations conducted according to the named 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. 184
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IT IS 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.