

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3965

IN THE MATTER OF:

Served July 8, 1992

Application of WILLIAM C. DYE,)
Trading as W&D TRANSPORTATION, to)
Transfer Certificate of Authority)
No. 61 to W&D TRANSPORTATION, INC.)

Case No. AP-92-14

By application filed May 7, 1992, William C. Dye, trading as W&D Transportation (Mr. Dye), a sole proprietor, seeks to transfer his Certificate of Authority No. 61 to W&D Transportation, Inc. (WDTI or transferee), a District of Columbia corporation.

We served notice of this application on May 14, 1992, in Order No. 3939, and therein directed applicant to publish further notice in a newspaper and file an affidavit of publication. Applicant complied. This application is unopposed.

SUMMARY OF EVIDENCE

Mr. Dye has entered into an agreement to transfer equipment and Certificate of Authority No. 61 to WDTI. That certificate authorizes Mr. Dye to transport passengers between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver. In exchange, applicant obtains a controlling interest in WDTI.

The agreement is a part of the application, which contains information regarding, among other things, transferee's corporate status, vehicle maintenance program, minimum requirements for drivers, finances, and regulatory compliance record.

WDTI apparently will provide the same service with the same vehicles at the same rates as Mr. Dye.

WDTI has a negative equity position but nearly \$3,000 in cash as of December 31, 1991. WDTI's income statement for 1991 shows \$144,450 in revenue and \$158,428 in expenses, including some \$17,000 in officers' salaries. WDTI projects \$140,000 in revenue and \$145,500 in expenses for the first twelve months of WMATC operations.

It appears that WDTI has adopted an employee stock ownership plan based on an employee's years of service.

WDTI's president, Mr. Dye, certifies on its behalf that it has access to, is familiar with, and will comply with the Compact, the Commission's rules and regulations, and United States Department of Transportation regulations relating to transportation of passengers for hire.

DISCUSSION AND CONCLUSION

The Compact, Title II, Article XI, Section 11(a) provides that a carrier "may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest." The fitness of the transferee also is at issue.¹

Based on the evidence in this record, the Commission finds WDTI to be fit, willing, and able to perform the proposed transportation properly and to conform with applicable regulatory requirements. In considering WDTI's negative equity position, the net operating loss for 1991, and the projected net operating loss in the next 12 months, the Commission has given considerable weight to the fact that this is essentially the incorporation of an established, ongoing operation. It is further found that applicant's proposed transfer of Certificate of Authority No. 61 to WDTI is consistent with the public interest.

THEREFORE, IT IS ORDERED:

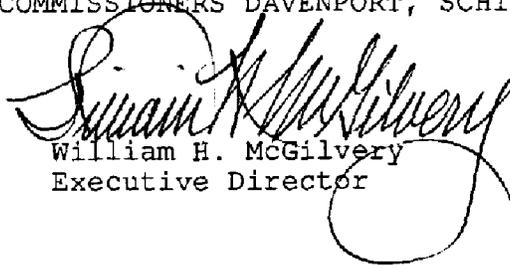
1. That William C. Dye, trading as W&D Transportation, is hereby conditionally granted approval to transfer Certificate of Authority No. 61 to W&D Transportation, Inc., contingent upon the latter's timely compliance with the requirements of this order.

2. That W&D Transportation, Inc., is hereby directed to file the following documents with the Commission within 30 days of the date of this order or such additional time as the Commission may direct or allow: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 3623; (b) four copies of a tariff or tariffs in accordance with Regulation No. 55; and (c) an affidavit stating that, pursuant to Regulation No. 61, the three revenue vehicles listed in the application have been identified as being owned and operated under WMATC No. 61 by W&D Transportation, Inc., not William C. Dye, trading as W&D Transportation.

3. That upon timely compliance by W&D Transportation, Inc., with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 61 shall be reissued to W&D Transportation, Inc., 1217 Shepherd Street, N.W., Washington, DC 20011.

4. That unless W&D Transportation, Inc., complies with the requirements of this order within 30 days from the date of issuance, or such additional time as the Commission may direct or allow, the grant of approval herein shall be void and the application shall stand denied in its entirety effective upon the expiration of said compliance time.

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


William H. McGilvery
Executive Director

¹In re Application of Atwood's Transport Lines, Inc., No. AP-78-30, Order No. 1912 (Nov. 6, 1978).