

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4278

IN THE MATTER OF:

Served April 20, 1994

Application to Transfer Certificate)
of Authority No. 64 from WILLIAMS)
BUS LINES, INC., to LAIDLAW TRANSIT)
(VIRGINIA) INC.)

Case No. AP-94-17

By application accepted for filing April 18, 1994, Williams Bus Lines, Inc. (Williams or transferor), a Virginia corporation, and Laidlaw Transit (Virginia) Inc. (Laidlaw or transferee), a Virginia corporation, (collectively applicants) seek Commission approval of the transfer of Certificate of Authority No. 64 from Williams to Laidlaw.

The application includes information regarding, among other things, transferee's corporate status, carrier affiliations, facilities, proposed tariff, finances, and regulatory compliance record. Also included is a copy of the certificate transfer agreement titled, "Purchase and Sale and Leaseback Agreement," executed by Williams and Laidlaw on August 30, 1993. The application is available for inspection at the office of the Commission during its regular business hours.

Transferee proposes conducting operations with 29 vehicles, with seating capacities of 28-52 passengers. Applicant's proposed tariff contains flat rates for transfer service and hourly rates, with minimum charges, for charter service.

Part II of the application, page 4, item 9, states that Exhibit F covers the period 09/01/93, to 03/31/94. This is consistent with the transfer agreement, which indicates that the leaseback period commenced September 1, 1993. The cover page for Exhibit F states that it covers the period 1/1/94 - 3/31/94. This is consistent with the Exhibit F column heading titled, "Year to Date." Laidlaw will be directed to file an amended Exhibit F unambiguously covering the period 9/1/93 to 3/31/94. Under the circumstances, use of the Commission's optional Form F might be advisable.

The transfer agreement, Exhibit L, paragraph 4, provides for the transfer of certain transportation contracts, which apparently may be avoided by Laidlaw if Laidlaw is not satisfied they will produce a specified level of revenue. Attached to Exhibit L are three transportation contracts for service in the Metropolitan District. Laidlaw will be directed to file a statement specifying which, if any, of the contracts attached to Exhibit L are being proposed as contract tariffs.

Commission Regulation No. 62-08 provides that the lease of a vehicle with a driver provided by the lessor is prohibited. Exhibit L indicates that the drivers of the vehicles being leased back to Williams have been Laidlaw employees since September 1, 1993. This is consistent with entries in Exhibit F for drivers' wages. Applicants

will be directed to file a statement explaining the apparent failure to comply with Regulation No. 62-08 since September 1, 1993. Applicants are advised to request a waiver of Regulation No. 62-08 pending a decision on this application.

Under Article XI, Section 11(a), and Article XII, Section 3(a)(ii), of the Compact, the Commission may approve the transfer of assets from Williams to Laidlaw, including Certificate of Authority No. 64, if the Commission finds said transfer to be in the public interest, which inter alia, requires a finding of transferee's fitness.¹

Pursuant to Commission Rule No. 6, this order and fulfillment of its requirements will provide notice of this application.

THEREFORE, IT IS ORDERED:

1. That applicants shall publish once in a newspaper of general circulation in the Metropolitan District, no later than April 29, 1994, notice in the form prescribed by the staff of the Commission.

2. That applicants shall file with the Commission, no later than May 27, 1994, an original and four copies of an affidavit that notice has been published as required in the preceding paragraph.

3. That transferee shall file with the Commission, no later than April 29, 1994, an original and four copies of an amended Exhibit F unambiguously covering the period 9/1/93 to 3/31/94.

4. That transferee shall file with the Commission, no later than April 29, 1994, an original and four copies of a statement specifying which, if any, of the contracts attached to Exhibit L are being proposed as contract tariffs.

5. That applicants shall file with the Commission, no later than April 29, 1994, an original and four copies of a statement explaining the apparent failure to comply with Regulation No. 62-08 since September 1, 1993.

6. That any person wanting to protest the application, in accordance with Commission Rule No. 13 and Regulation No. 54-04(a), and any person wanting to comment on the application, in accordance with Regulation No. 54-04(a), shall file such protest or comment at the office of the Commission, 1828 L Street, N.W., Suite 703, Washington, DC 20036-5104, no later than May 27, 1994, and shall simultaneously serve a copy of such protest or comment on applicant's attorney, Robert A. Hirsch, Esquire, Krukowski & Costello, P.C., 2011 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006-1832.

¹ In re WestScot Ltd. Partnership & Conference Ctr. Interests, Inc., t/a Westfields Int'l Conference Ctr., No. AP-93-24, Order No. 4175 (Sept. 30, 1993).

7. That any person seeking a formal oral hearing on this matter, in accordance with Commission Regulation No. 54-04(b), shall request one no later than May 27, 1994, and shall simultaneously serve a copy of such request on applicant's attorney, Robert A. Hirsch, Esquire, Krukowski & Costello, P.C., 2011 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006-1832.

FOR THE COMMISSION:


William S. Morrow, Jr.
Acting Executive Director