

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4355

IN THE MATTER OF:

Served August 1, 1994

Application to Transfer Certificate)  
of Authority No. 84 from RICHARD W.)  
BUTLER to RICHARD W. BUTLER, JR. )

Case No. AP-94-27

By application filed June 9, 1994, Richard W. Butler (transferor), a sole proprietor, and Richard W. Butler, Jr. (transferee), a sole proprietor (collectively applicants), seek Commission approval of the transfer of Certificate of Authority No. 84.

Notice of this application was served on June 14, 1994, in Order No. 4318, and applicants were directed to publish further notice in a newspaper and file an affidavit of publication. Applicants complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, transferee's facilities, proposed tariff, finances, and regulatory compliance record. Also included is a copy of the certificate transfer agreement.

Transferee proposes conducting operations with a 15-passenger van to be acquired from transferor. Transferee's proposed tariff contains per capita tour rates. Transferee proposes to conduct the same operations as transferor.

Transferee filed a statement of net worth as of December 31, 1993, showing assets of \$120,000; liabilities of \$106,500; and net worth of \$13,500. Transferee's projection of revenue and revenue deductions for the first twelve months of WMATC operations shows revenues of \$20,000; deductions of \$7,765; and net income of \$12,235.

Transferee certifies he 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. Transferee further certifies that neither transferee nor any person controlling, controlled by, or under common control with transferee has any control relationship with a carrier other than transferee.

DISCUSSION AND CONCLUSION

The Compact, Title II, Article XI, Section 11(a), provides that: "A person may not transfer a Certificate of Authority unless the Commission approves the transfer as consistent with the public interest." Prior to the 1990 amendment of the Compact, effective

1991, the public interest analysis focused on the fitness of the acquiring party, the fairness of the purchase price, the resulting competitive balance, any dormancy of operating rights, and the benefits to the riding public.<sup>1</sup> The purchase price and dormancy inquiries are no longer relevant under the amended Compact.<sup>2</sup>

We find that transferee is fit. We also find that because transferee is merely stepping into the shoes of transferor and is not affiliated with any WMATC carrier, there should be no adverse effect on the competitive balance in this market.<sup>3</sup> The public benefits of the service conducted by transferor and to be conducted by transferee are self-evident and were established when transferor acquired Certificate No. 84<sup>4</sup> in 1983.<sup>5</sup>

Accordingly, based on the evidence in this record, the Commission finds the transfer of Certificate of Authority No. 84 consistent with the public interest.

THEREFORE, IT IS ORDERED:

1. That the transfer of Certificate of Authority No. 84, from Richard W. Butler to Richard W. Butler, Jr., is hereby conditionally approved, contingent upon transferee's timely compliance with the requirements of this order.

2. That Richard W. Butler, Jr., is hereby directed to file the following documents with the Commission: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) four copies of a tariff or tariffs in accordance with Commission Regulation No. 55, plus an appropriate assignment, novation or consent agreement for each transferred contract; (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; (d) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the

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<sup>1</sup> In re Philip J. Pearson, t/a Milling Tours, & Keith Jones, No. AP-87-17, Order No. 3073 (Sept. 23, 1987); In re Nation's Capital Sightseeing Tours & Ernest Harrelson, No. AP-86-40, Order No. 2953 (Dec. 22, 1986); In re Frederick Limo, Inc., & Gaithersburg Limo. Serv., Inc., No. AP-86-25, Order No. 2917 (Oct. 3, 1986).

<sup>2</sup> 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); In re Boston Coach-Wash. Corp., No. AP-93-21, Order No. 4163 (Sept. 13, 1993).

<sup>3</sup> In re Williams Bus Lines, Inc., & Laidlaw Transit (Virginia) Inc., No. AP-94-17, Order No. 4316 (June 9, 1994); Order No. 4175; Order No. 4163.

<sup>4</sup> Order No. 4316; Order No. 4175.

<sup>5</sup> In re Richard W. Butler, No. AP-83-08, Order No. 2447 (Aug. 9, 1983).

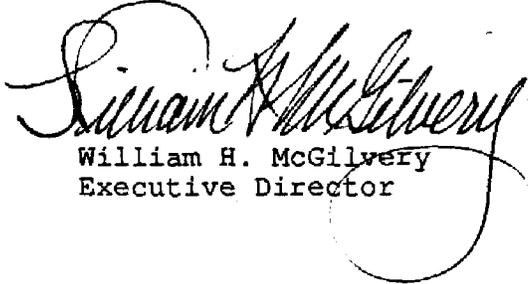
State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 84 is hereby reassigned.

3. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 84 shall be reissued to Richard W. Butler, Jr., 1249 Stonewood Court, Annapolis, MD 21401.

4. That Richard W. Butler, Jr., may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate of Authority No. 84 has been reissued in accordance with the preceding paragraph.

5. That unless Richard W. Butler, Jr., complies with the requirements of this order within 30 days from the date of its issuance, or such additional time as the Commission may direct or allow, the approval of transfer 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