

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4474

IN THE MATTER OF:

Served January 11, 1995

Application to Transfer Certificate)  
No. 6 from FRANKLIN CHARTER BUS, )  
INC., to FRANKLIN MOTORCOACH, INC., )  
and for Temporary Approval )

Case No. AP-95-02

By application filed January 9, 1995, Franklin Charter Bus, Inc. (FCB or transferor), WMATC Carrier No. 6, and Franklin Motorcoach, Inc. (FMI or transferee) (collectively applicants), seek Commission approval of FMI's purchase of substantially all the assets of FCB, including FCB's certificate of authority. FMI also seeks temporary approval to operate those assets pending approval of the transfer.

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 purchase agreement executed December 1, 1994, and effective January 3, 1995. The application is available for inspection at the office of the Commission during its regular business hours.

FMI is under common control with Gold Line, Inc., WMATC Carrier No. 14, and National Coach Works, Inc., WMATC Carrier No. 26. FMI also is under common control with several passenger carriers in Pennsylvania and Florida.

FMI proposes a general tariff containing hourly charter rates, subject to minimum mileage rates. FMI intends to provide motorcoach service in the same manner as FCB.

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 FCB to FMI, including Certificate of Authority No. 6, if the Commission finds said transfer to be in the public interest. The public interest analysis focuses on the transferee's fitness, the resulting competitive balance, the benefits to the riding public and the interests of affected employees.<sup>1</sup> Temporary approval requires a finding of transferee's fitness and usually entails an assessment of potential injury to the property being transferred, or potential interference with its usefulness, which might arise from our denying temporary approval.<sup>2</sup>

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<sup>1</sup> In re Williams Bus Lines, Inc., & Laidlaw Transit (Virginia) Inc., No. AP-94-17, Order No. 4316 (June 9, 1994); see In re ATE Mgmt. & Serv. Co., Greyhound Lines, Inc., & Trailways Commuter Transit, Inc., No. AP-91-37, Order No. 3876 (Jan. 6, 1992) (transferee found fit).

<sup>2</sup> In re ATE Mgmt. & Serv. Co., Greyhound Lines, Inc., & Trailways Commuter Transit, Inc., No. AP-91-38, Order No. 3858 (Dec. 3, 1991).

The application does not address the aforementioned certificate transfer and temporary approval criteria, except transferee's fitness. Applicants will be directed to file two statements: one addressing the effect of the agreement on competition, the riding public and the interests of affected employees; and one addressing the potential injury to the property being transferred, or potential interference with its usefulness, which might arise from denial of temporary approval.

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

THEREFORE, IT IS ORDERED:

1. That applicants shall publish once in a newspaper of general circulation in the Metropolitan District, no later than January 23, 1995, two notices in the form prescribed by the staff of the Commission.

2. That applicants shall file with the Commission, no later than February 3, 1995, an original and four copies of an affidavit that the notices have been published as required in the preceding paragraph.

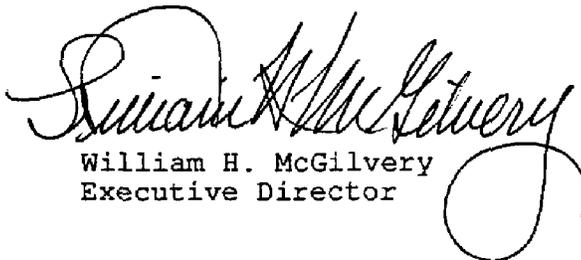
3. That applicants shall file with the Commission, no later than January 23, 1995, an original and four copies of a statement addressing the effect of the agreement on competition, the riding public and the interests of affected employees.

4. That applicants shall file with the Commission, no later than January 23, 1995, an original and four copies of a statement addressing the potential injury to the property being transferred, or potential interference with its usefulness, which might arise from denial of temporary approval.

5. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing with respect to the temporary approval application is February 3, 1995, and that copies must be served on applicants' attorney, John R. Sims, Jr., Esquire, 815 Nethercliffe Hall Road, Great Falls, VA 22066.

6. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing with respect to the certificate transfer application is February 10, 1995, and that copies must be served on applicants' attorney, John R. Sims, Jr., Esquire, 815 Nethercliffe Hall Road, Great Falls, VA 22066.

FOR THE COMMISSION:

  
William H. McGilvery  
Executive Director