

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4508

IN THE MATTER OF:

Served March 1, 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 Motorcoach, Inc. (FMI), seeks temporary approval to operate substantially all the assets of Franklin Charter Bus, Inc. (FCB), WMATC Carrier No. 6, (collectively applicants), pending Commission determination of FMI's proposed purchase of FCB's assets, including FCB's certificate of authority.

Notice of this application was served on January 11, 1995, in Order No. 4474. Applicants were directed to publish further notice in a newspaper and file an affidavit of publication and 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. Applicants complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, FMI's corporate status, carrier affiliations, facilities, finances, and regulatory compliance record. Also included is a copy of the purchase agreement executed December 1, 1994, and effective January 3, 1995.

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 to operate FCB's vehicles at the rates and according to the rules published in FCB's tariff.

FMI filed a balance sheet as of January 12, 1995, showing assets of \$2,250,000;¹ liabilities of \$2,000,000; and equity of \$250,000. FMI's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$400,000; other operating income of \$1,571,000; operating expenses of \$1,757,014; and net income of \$213,986.

¹ This agrees with the purchase price stated in the purchase agreement.

FMI certifies 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

Pending determination of an application under Article XII, Section 3, of the Compact, the Commission may grant "temporary approval" up to a maximum of 180 consecutive days if the Commission determines that grant to be consistent with the public interest.² The public interest analysis includes an assessment of whether and to what extent a denial of temporary approval would cause a diminution in value or utility of the subject property.³ Temporary approval may be granted to a non-WMATC carrier upon a finding of fitness.⁴ Temporary approval is warranted where a key person controlling the transferor is too ill to continue managing operations.⁵

According to the application, FCB's principal owner has been active in the business in the past but currently is in poor health and in need of surgery. Operation of the company has become a heavy burden. It is averred that denial of temporary approval might delay the surgery, result in increased carrying costs to FMI, and ultimately trigger rescission of the purchase agreement, causing layoffs of FCB employees as FCB's owner attempts to continue operations at a scaled-back level.

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

THEREFORE, IT IS ORDERED:

1. That contingent on FMI complying with the requirements of this order, FMI is hereby granted temporary approval to operate the assets of FCB, including Certificate of Authority No. 6, at the rates and according to the rules published in FCB's tariff. Such approval shall be effective from the date of this order and continue until such time, if any, as Certificate No. 6 is reissued, not to exceed 180 days.

² Compact, tit. II, art. XII, § 3(d).

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

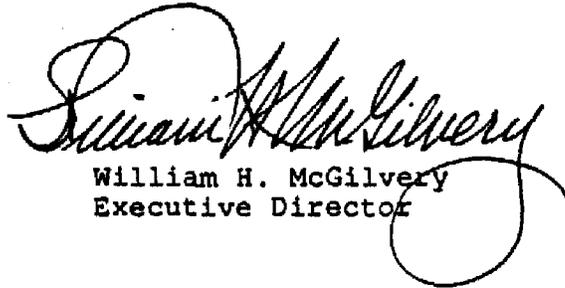
⁴ In re Frederick Limo, Inc., & Gaithersburg Limo. Serv., Inc., No. AP-86-25, Order No. 2888 (July 25, 1986).

⁵ In re Highview Bus Serv., Inc., & Courtesy Bus Rental Sys., Inc., No. AP-78-47, Order No. 1913 (Nov. 6, 1978).

2. That FMI 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; and (b) a notarized affidavit of temporary vehicle identification pursuant to Commission Regulation No. 61, for which purpose WMATC TA No. AP-95-02 is hereby assigned.

3. That unless FMI 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 grant of temporary approval shall be void and the application for temporary approval shall stand denied in its entirety effective upon the expiration of said compliance time.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS ALEXANDER, LIGON, AND SHANNON:



William H. McGilvery
Executive Director