

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4715

IN THE MATTER OF:

Served December 5, 1995

Application to Transfer)
Certificate of Authority No. 209)
from C&M CORPORATION, Trading as)
C&M TRANSPORT, to C&M TOUR &)
TRANSPORT, INC.)

Case No. AP-95-25

C&M CORPORATION, Trading as C&M)
TRANSPORT, Revocation of)
Certificate of Insurance and)
Investigation of Suspension and)
Revocation of Certificate No. 209)

Case No. MP-95-57

By application accepted for filing April 21, 1995, C&M Corporation, trading as C&M Transport, a Maryland corporation (transferor), and C&M Tour & Transport, Inc., a Virginia corporation (transferee), (collectively applicants), seek Commission approval to transfer Certificate of Authority No. 209 from the Maryland corporation to the Virginia corporation. Both corporations are controlled by the same shareholders and officers.

Notice of the application was served on April 26, 1995, in Order No. 4584, which consolidated the application proceeding with our investigation of transferor's compliance with the Commission's insurance regulations, pursuant to which transferor's certificate of authority is currently suspended.¹ Applicants were directed to publish notice of the application in a newspaper and file an affidavit of publication, and transferee was directed to file a certificate of good standing.

On May 30, 1995, Rainbow Luxury Lines, Inc., Carrier No. 214, filed a protest. On September 11, 1995, applicants filed a statement averring under oath that the matter had been settled. Applicants subsequently filed a certificate of service attesting that the September 11 statement had been served on protestant. Protestant has filed no response.

Applicants subsequently discovered that notice had not been published as required by Order No. 4584. A new publication deadline was established in Order No. 4687. Applicants have now complied with the publication and filing requirements of Orders Nos. 4584 and 4687.

¹ See In re C&M Corp. t/a C&M Transport, No. MP-95-57, Order No. 4517 (Mar. 9, 1995) (revoking certificate of insurance).

SUMMARY OF EVIDENCE

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.

Transferee proposes conducting operations with three minibuses. Transferee proposes offering the same service at the same rates as transferor.

Transferee filed a balance sheet as of December 31, 1994, showing assets of \$333,743; liabilities of \$133,107; and equity of \$200,636. Transferee's operating statement for the twelve months ended December 31, 1994, shows income of \$317,860; expenses of \$318,346; and a net loss of \$486. Transferee's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$278,403; other income of \$118,923; expenses of \$359,381; and net income of \$37,945.

Transferee 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

Under Article XI, Section 11(a), of the Compact, the Commission may approve the transfer of Certificate of Authority No. 209, if the Commission finds said transfer to be in the public interest. The public interest analysis in a certificate transfer proceeding focuses on the transferee's fitness, the resulting competitive balance, and the benefits to the riding public.² An applicant bears the initial burden of establishing that the proposed transaction is consistent with the public interest.³ Once an applicant has made its prima facie case, the burden shifts to protestant to contravene that showing.⁴

We find that applicant has made its prima facie case. The evidence summarized above establishes transferee's fitness. The competitive balance will not be disturbed because transferee is merely stepping into the shoes of the transferor. The public benefits are self-evident and were established when transferor acquired its certificate.

² In re V.I.P. Tours & V.I.P. Tours, Inc., No. AP-94-35, Order No. 4392 (Sept. 28, 1994); In re Richard W. Butler & Richard W. Butler, Jr., No. AP-94-27, Order No. 4355 (Aug. 1, 1994).

³ Cf., In re D.C. Ducks, Inc., No. AP-94-21, Order No. 4361 (Aug. 9, 1994) (reciting burden on applicant for new certificate).

⁴ Id.

The protest, however, does not contravene applicant's showing. Applicant's averment that the matter has been settled is uncontroverted. Accordingly, we deny the protest and find that the proposed transfer is consistent with the public interest.

Upon transferee's timely compliance with the requirements of this order, Case No. MP-95-57 will stand terminated.

THEREFORE, IT IS ORDERED:

1. That the protest of Rainbow Luxury Lines, Inc., is hereby denied.

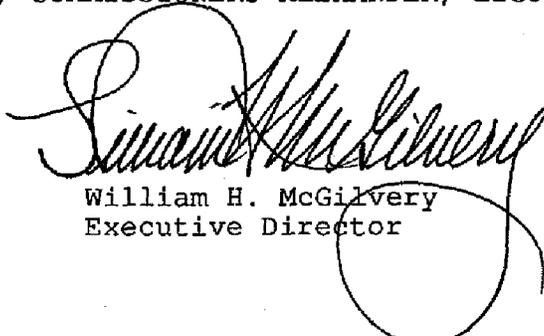
2. That the proposed transfer of assets is hereby conditionally approved, contingent upon transferee's timely compliance with the following requirements.

3. That transferee is hereby directed to file the following documents with the Commission: (a) four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (b) 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; (c) evidence of ownership or a lease as required by Commission Regulation No. 62 for each vehicle to be used in revenue operations; (d) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (e) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 209 is hereby reassigned.

4. That upon timely compliance with the requirements of the immediately preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 209 shall be reissued to C&M Tour & Transport, Inc., 7908-D Kincannon Place, Lorton, VA 22079.

5. That unless transferee 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 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 ALEXANDER, LIGON, AND SHANNON:



William H. McGilvery
Executive Director

