

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4857

IN THE MATTER OF:

Served May 22, 1996

Application of MADISON LIMOUSINE) Case No. AP-96-18
SERVICE, INC., Trading as MADISON)
LIMO, for a Certificate of Authority)
-- Irregular Route Operations)

By application accepted for filing April 9, 1996, Madison Limousine Service, Inc., a Virginia corporation trading as Madison Limo, seeks a certificate of authority to transport passengers, together with mail, express and baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

Applicant previously held Certificate No. 132. That certificate was revoked in 1991 for applicant's willful violation of the Compact.¹ Applicant reapplied for operating authority later that same year. Applicant was found unfit, and the application was denied, with leave to reapply in ninety days.²

Notice of this application was served on April 12, 1996, in Order No. 4812, and applicant was directed to publish further notice in a newspaper and file an affidavit of publication and statements clarifying applicant's corporate status and confirming the nonexistence of any proceedings before other regulatory agencies in which applicant has been found unfit or in which its fitness is or was under investigation. Applicant complied. The application is unopposed.

SUMMARY OF EVIDENCE

The application includes information regarding, among other things, applicant's corporate status, facilities, proposed tariff, finances, and regulatory compliance record.

Applicant proposes commencing operations with seven vans, one sedan and one limousine. Applicant's proposed tariff contains hourly rates and airport transfer rates, with volume discounts.

¹ Air Couriers Int'l Ground Transp. Servs., Inc., t/a Passenger Express, v. Madison Limo. Serv., Inc., No. FC-90-02, Order No. 3810 (Aug. 30, 1991).

² In re Madison Limo. Serv., Inc., No. AP-91-39, Order No. 3891 (Feb. 24, 1992).

Applicant filed a balance sheet as of December 31, 1995, showing assets of \$202,370; liabilities of \$170,520; and equity of \$31,850; Applicant's projected operating statement for 1996 and 1997 shows revenue of \$733,000; operating expenses of \$699,881; and operating profit of \$33,119.

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

DISCUSSION AND CONCLUSION

This case is governed by the Compact, Title II, Article XI, Section 7(a), which provides in relevant part that:

. . . the Commission shall issue a certificate to any qualified applicant . . . if it finds that --

(i) the applicant is fit, willing, and able to perform [the] transportation properly, conform to the provisions of this Act, and conform to the rules, regulations, and requirements of the Commission; and

(ii) that the transportation is consistent with the public interest.

An applicant for a certificate of authority must establish financial fitness, operational fitness, and regulatory compliance fitness.³ There is no issue here with respect to applicant's financial fitness or operational fitness.

An evaluation of compliance fitness is prospective in nature.⁴ The purpose of the inquiry is to protect the public from those whose conduct demonstrates an unwillingness to operate in accordance with regulatory requirements.⁵ Past violations do not necessarily preclude a grant of authority but do permit the inference that violations will continue.⁶ When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and

³ In re Capitol Bus Rental, Inc., t/a Capitol Tours, No. AP-95-50, Order No. 4719 (Dec. 14, 1995).

⁴ Order No. 3891.

⁵ Id.

⁶ Id.

(5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁷

The Commission assessed a civil forfeiture against applicant in 1992 for knowingly and willfully operating without authority. Few, if any, violations are more serious. There were no mitigating circumstances. The violations spanned a two-year period and occurred in the face of a Commission cease-and-desist order and subsequent revocation of the limited authority applicant possessed at the time. On the other hand, applicant has corrected its past mistakes by paying the civil forfeiture, and there is no evidence in the record of any violations of the Compact during the intervening four years. The record supports a finding of prospective compliance fitness.

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 the proposed transportation is consistent with the public interest.

The record discloses that applicant shares office space with American Services International Company, Carrier No. 197. Each carrier is admonished to keep its assets, books and operations completely separate from the other's. Sharing of office space will be allowed, but this should not be construed as permission to share revenue vehicles or operating authority.⁸

THEREFORE, IT IS ORDERED:

1. That Madison Limousine Service, Inc., trading as Madison Limo, 7115 Leesburg Pike, Suite 307, Falls Church, VA 22043, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers, together with mail, express and baggage in the same vehicles as passengers, in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 15 or fewer persons, including the driver.

2. That applicant 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) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (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)

⁷ Id.

⁸ In re Metro Access of Md. Inc., No. AP-94-07, Order No. 4284 (Apr. 26, 1994).

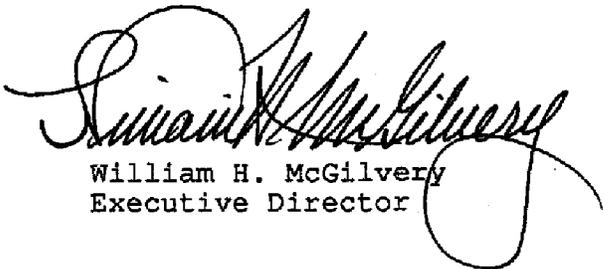
by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 132 is hereby reassigned.

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. 132 shall be issued to applicant.

4. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

5. That unless applicant 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 authority herein 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 AND LIGON:



William H. McGilvery
Executive Director