

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4904

IN THE MATTER OF:

Served July 31, 1996

Application of OLD TOWN TROLLEY)
TOURS OF WASHINGTON, INC., and) Case No. AP-96-44
D.C. DUCKS, INC., for Approval)
and Temporary Approval Pursuant)
to the Compact, Article XII,)
Section 3)

By application filed July 24, 1996, Old Town Trolley Tours of Washington, Inc., WMATC Carrier No. 124, and D.C. Ducks, Inc., WMATC Carrier No. 267, seek Commission approval of a license agreement pursuant to Article XII, Section 3(a), of the Compact. Applicants also request temporary approval under Section 3(d).

The license agreement grants Old Town the exclusive right to use the assets of D.C. Ducks from March 18, 1996, to November 15, 1997, with an option to purchase.

Under Article XII, Section 3, Subsections (a)(ii) and (c), the Commission may approve the contract of one carrier to operate a substantial part of the property or franchise of another carrier if the contract is consistent with 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.¹

The Commission may grant temporary approval under subsection 3(d) if denial would cause a diminution in the value or utility of the covered assets.²

Applicants will be directed to file two statements -- one addressing the expected impact of the transfer on the competitive balance, benefits to the riding public and interests of affected employees, and one addressing the potential diminution in value or utility of the covered assets which might arise from denial of temporary approval.³

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

¹ In re Regency Servs., Inc., & Carey Limo. D.C., Inc., No. AP-95-39, Order No. 4689 at 3 (Nov. 2, 1995).

² Id. at 3-4.

³ No fitness evidence is necessary inasmuch as an existing WMATC carrier is presumptively fit. Id. at 3.

THEREFORE, IT IS ORDERED:

1. That applicants shall publish once in a newspaper of general circulation in the Metropolitan District, no later than August 12, 1996, two notices in the form prescribed by the staff of the Commission.

2. That applicants shall file with the Commission, no later than August 22, 1996, an original and four copies of proof of publication as required in the preceding paragraph.

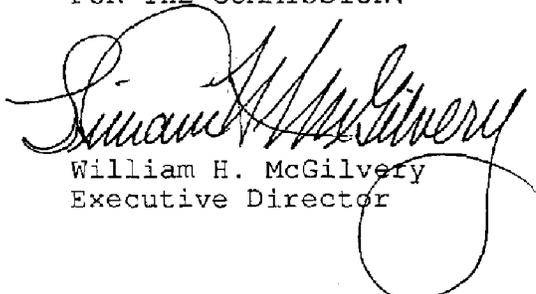
3. That applicants shall file with the Commission, no later than August 12, 1996, an original and four copies of a statement addressing the expected impact of the transfer on the competitive balance, benefits to the riding public and interests of affected employees.

4. That applicants shall file with the Commission, no later than August 12, 1996, an original and four copies of a statement addressing the potential diminution in value or utility of the covered assets 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 August 22, 1996, and that copies must be served on applicants' attorney, Joel C. Weingarten, Esquire, 1616 H Street, N.W., Suite 902, Washington, DC 20006.

6. That the deadline for filing protests, comments, applications for intervention, and requests for formal hearing with respect to the certificate transfer application is September 2, 1996, and that copies must be served on applicants' attorney, Joel C. Weingarten, Esquire, 1616 H Street, N.W., Suite 902, Washington, DC 20006.

FOR THE COMMISSION:



William H. McGilvery
Executive Director