

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 4966

IN THE MATTER OF:

Served November 8, 1996

Application of WASHINGTON)
SHUTTLE, INC., Trading as)
SUPERSHUTTLE, for a Certificate)
of Authority -- Irregular Route)
Operations)

Case No. AP-96-13

By application filed March 21, 1996, Washington Shuttle, Inc., a Virginia corporation trading as SuperShuttle, seeks a certificate of authority to transport passengers, together with 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 is under common control with other passenger carriers.

Notice of this application was served on March 28, 1996, in Order No. 4801, and applicant was directed to publish further notice in a newspaper and file: an affidavit of publication; an amended Exhibit D; a current balance sheet supported by legally enforceable stock subscriptions; a statement providing full disclosure of applicant's and its shareholders' affiliations with other carriers; and a statement addressing the effect approval of this application will have on competition, the riding public and the interests of affected employees. Applicant complied.

The application is opposed by the District of Columbia Taxicab Commission (DCTC) and Malek Investment, Inc., trading as Montgomery Airport Shuttle (MAS), WMATC Carrier No. 202. The application also is opposed by the Coalition for Fair Transportation (CFT), an association of WMATC carriers and taxicab companies.

The application is supported by the Metropolitan Washington Airports Authority (MWAA). MWAA's intervention 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 twenty-five vans capable of operating on clean-burning fuel, such as natural gas. Applicant's proposed tariff contains one-way per capita rates, categorized by zip code, for transportation between points in Montgomery and Prince George's Counties, Maryland, and the District of Columbia, on the one hand, and Washington National Airport and Washington-Dulles International Airport, on the other. A \$5 fare

applies to additional passengers travelling in a group. Applicant will operate under a contract with MWAA granting applicant access to on-demand passengers at both National and Dulles.

Applicant filed a balance sheet as of April 8, 1996, showing cash of \$40,000; stock subscriptions receivable of \$760,000; and equity of \$800,000. Applicant's pro forma income statement for the first year of operations shows revenue of \$4,239,741; expenses of \$4,758,493, and a net loss of \$518,752.

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.

DISCUSSION

This case is governed by the Compact, Title II, Article XI, Section 7, regarding applications for certificates of authority, and Article XII, Section 3, regarding applications for approval of common control.

I. Application for Certificate of Authority

Article XI, Section 7(a), of the Compact 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 bears the burden of establishing fitness and consistency with the public interest.¹ Once an applicant has made its prima facie case, the burden shifts to protestant to contravene that showing, which includes demonstrating that protestant's operations will be endangered or impaired contrary to the public interest.² The protest must be accompanied by all available evidence on which protestant would rely.³ A request for oral hearing must contain reasonable grounds showing good cause, including a description of the

¹ In re Double Decker Bus Tours, W.D.C., Inc., No. AP-95-21, Order No. 4642 (Aug. 9, 1995).

² Id. Because DCTC and CFT are asserting the interests of their members, they bear the burden their members would bear if the members appeared here in their individual capacities.

³ Commission Regulation No. 54-04(a).

evidence to be adduced and an explanation of why it cannot be adduced without a hearing.⁴

A. Fitness

The fitness inquiry focuses on an applicant's financial fitness, operational fitness, and regulatory compliance fitness.⁵ No issue of compliance fitness has been raised by any of the protestants, and none appears from the application itself.

1. Financial Fitness

To establish financial fitness, an applicant must show the present ability to sustain operations during the first year under WMATC authority.⁶ Although applicant is projecting a net loss during the first year of WMATC operations, applicant's current assets and net projected cash flow are sufficient to cover both projected expenses and current liabilities. We have found other applicants financially fit under similar circumstances.⁷

CFT contends that applicant's "financial and ridership projections are purely speculative and will not withstand critical analysis." CFT Protest at 3. We disagree.

Applicant's first-year revenue projection appears reasonable to us. Using an average full fare of \$14,⁸ and a 1:1 ratio of full-fare customers to \$5-fare customers, applicant's projected first-year revenue of \$4,758,493 implies a first-year ridership of approximately 500,000 passengers. According to MWAA's most recent audited annual report, some 10.5 million passengers originated their air travel at National and Dulles in 1995.⁹ Using MWAA's 1993 passenger survey as an indicator of the relative proportion of enplaning passengers to

⁴ Commission Regulation No. 54-04(b).

⁵ Order No. 4642.

⁶ In re WDC Sightseeing Tours, Inc., AP-92-33, Order No. 4036 (Jan. 12, 1993).

⁷ See In re Community Multi-Serivs., Inc., No. AP-95-56, Order No. 4753 (Jan. 30, 1996) (sufficient cash flow); Order No. 4642.

⁸ The average fare of \$14 was calculated by weighting each of applicant's proposed fares by the number of zip code areas to which each pertains. Assuming twice as many travellers ride at the business fare as ride at the residential fare, this yields a weighted average fare of approximately \$14. Because we are addressing projections not susceptible of pinpoint accuracy, this is as precise as we need to be.

⁹ Pursuant to Commission Rule No. 22-07, we take official notice of MWAA's audited annual report for the fiscal year ended September 30, 1995. The 10.5 million figure is obtained by dividing MWAA's \$31,534,260 passenger-facility-charge (PFC) revenue by the \$3 PFC collected from each enplaning passenger.

deplaning passengers and National patrons to Dulles patrons, we estimate that in 1995 some 12.6 million passengers flying into or out of National Airport required ground transportation.¹⁰ Applicant's revenue projection, therefore, implies a first-year market share of approximately 4 percent. This seems achievable to us given applicant's contract with MWAA.

Applicant's cost projections do not appear to be out of line with its revenue projection. When we factor in the extensive experience of applicant's directors/officers in providing van service to and from airports across the nation and furnishing ground transportation services to and from National and Dulles in particular, we are satisfied these estimates are sufficiently sound.

CFT has requested discovery and oral hearing on this issue. In the five years since the Compact was amended to relax entry standards and promote competition among carriers, it has been our experience that a carrier's financial fitness may be adequately determined from the financial exhibits submitted with the application, as supplemented by supporting documents when necessary. Without some concrete basis for questioning an applicant's projections, an oral hearing is not warranted.

In this case, applicant has already produced substantial supporting documentation pursuant to Order No. 4801. CFT's conclusory allegations do not provide a sufficient basis for requiring additional substantiation.¹¹ CFT could have produced its own evidence on this issue at the time it filed its protest. Two of CFT's members, Capital Tours & Transportation (Virginia), Inc., and Diamond Transportation Services, Inc., have experience providing van service to National; yet, CFT produced no affidavits or other evidence based on that experience which would call into question applicant's revenue projection or cost projections. Accordingly, the requests for discovery and oral hearing on this issue are denied.

2. Operational Fitness

CFT also asserts that applicant "will not be able to meet the requirements of [MWAA's] contract with only the 25 vehicles disclosed in its application." CFT categorizes this as a financial fitness

¹⁰ The 1993 survey at National was attached to applicant's response to Order No. 4801. We take official notice of the '93 survey at Dulles, which was included in MWAA's solicitation of shared-ride service proposals. The surveys show that approximately the same number of passengers fly into National as fly out. The surveys also show that 1.5 times as many people use National as use Dulles. It is reasonable to conclude, therefore, that, based on 10.5 million enplaning passengers at both airports, some 12.6 million passengers began or ended their flights at National in fiscal 1995.

¹¹ See In re South East Area Transit, Inc., t/a SEAT, No. AP-92-29, Order No. 4033 (Jan. 7, 1993) (conclusory allegations not evidence); In re Miju Express, Inc., No. AP-91-35, Order No. 3855 (Dec. 3, 1991) (same).

issue, but we see it as a challenge to applicant's operational fitness. Regardless, even if we agreed with CFT's allegation, this is not a sufficient basis for finding applicant unfit. Whether a carrier can comply with a contract such as MWAA's is not in and of itself a measure of that carrier's fitness to serve the public under the carrier's general tariff. There is no first-year minimum passenger-volume mandate under the Compact, and applicant is free to expand its fleet as the market dictates.¹²

In any case, applicant predicts it will originate 137,132 trips at National Airport during the first year under the MWAA contract.¹³ CFT fails to explain how this is not possible with 25 vans available 24 hours per day for 365 days and a first-year minimum service requirement confined to 75 hotels in downtown DC. MWAA's support of this application implies it believes 25 vans will suffice during the first year. Consequently, we will deny this part of CFT's protest and corresponding request for discovery and oral hearing.¹⁴

B. Public Interest

Protestants allege that granting the application will cause harm to them and/or the members of the industry they represent and that such harm will redound to the detriment of the riding public. Supposedly, once granted authority, applicant will crowd many, perhaps all, taxicab and van operators out of the market, and, as a consequence, the riding public will be left with fewer transportation options.

To evaluate protestant's allegations we must define the relevant market. As indicated above in the discussion of financial fitness, we find that the relevant market in year one is ground transportation to and from National Airport. After year one, the relevant market expands to include ground transportation to and from Dulles. The market is characterized by intermodal competition (e.g., Metrorail, coach service, taxicab service, van service, limousine and sedan service, car rental, private auto) and intramodal competition (e.g., airport van service provided by WMATC carriers nos. 122, 202, 224, 253, 262, 270, 276, 279, 309, 325, 327, 338).

1. DCTC's Protest

DCTC alleges that the service proposed by applicant will have "an adverse impact on taxicab service and the taxicab industry in the District of Columbia and Metropolitan District by systematically

¹² Compact, tit. II, art. XI, § 7(e).

¹³ Applicant projects \$191,985 in MWAA fee expense. During the first year of the contract, MWAA will receive \$1.40 per outbound trip, with a minimum guarantee of \$150,000.

¹⁴ See supra, § I.A.1. (discussing need for concrete basis for questioning applicant's projections).

eliminating alternative modes of ground transportation service for passengers to and from National Airport and Dulles International Airport." DCTC Protest at 1.

DCTC does not explain how this will occur, and in light of applicant's 4 percent first-year market share, we find it unlikely that granting "the application will cause permanent and irreparable harm to taxicab operators in the District of Columbia and Metropolitan District" in the foreseeable future -- if ever. Moreover, granting the application will result in more choices for passengers at National and Dulles, not fewer. Currently, no WMATC carrier has access to on-demand passengers at either airport. We commend MWAA on making this option available to its customers.

DCTC has not met its burden of proof. The burden on protestant is twofold. First, the protest must be accompanied by some evidence of the alleged harm to protestant.¹⁵ Second, the evidence must support a finding that the harm to protestant will result in harm to the public interest.¹⁶ The protest here is not supported by any evidence whatsoever, much less evidence of the impact a grant of authority would have on the industry DCTC regulates. Without so much as an affidavit in support, DCTC's allegations of harm are entitled to little or no weight.¹⁷ Moreover, any grant of authority carries with it the potential for diverting some passengers from existing carriers to a new entrant; that is precisely why a protestant must allege more than a mere diversion of revenue.¹⁸ At best, a simple diversion of revenue is all that may be inferred from the protest here.

DCTC has requested discovery and oral hearing to "determine the impact of granting the application on taxicabs and other passenger vehicles for hire licensed to operate in the District of Columbia." DCTC Protest at 2. We do not see why DCTC needs discovery and a hearing to adduce this evidence. Evidence of harm to taxicabs and the riding public would not be peculiarly in applicant's possession; rather, such evidence may be sought in the financial statements of the carriers DCTC regulates and in market statistics. Evidence regarding the market is as available to DCTC as it is to applicant.¹⁹

DCTC has had ample opportunity to obtain the evidence it says it would offer at hearing. MWAA's solicitation of contract offers was issued in early 1995. The contract was awarded to applicant early this year. This application was filed March 21, 1996. Still, no evidence has been forthcoming. Under the circumstances, further delay is not justified.

¹⁵ Order No. 4642 at 7.

¹⁶ Id. at 7.

¹⁷ Id. at 7.

¹⁸ Id. at 7.

¹⁹ Dial A Car, Inc., v. Transportation, Inc., 82 F.3d 484, 488 (D.C. Cir. 1996).

For the foregoing reasons, we will deny DCTC's protest and request for discovery and oral hearing.

2. CFT's Protest

CFT alleges that applicant's proposed operations will "cause permanent and irreparable harm to CFT and its members if approved by the Commission" and "will ultimately result in the curtailment or elimination of transportation alternatives upon which the public has come to rely." CFT Protest at 1-2. According to CFT, applicant's

proposed rates are set at an artificially low level and are designed to unfairly seize market share and drive its competitors out of business. In order to sustain its operations, [applicant] must eventually raise its rates to a level equal to or greater than that now prevailing in the market-place.

CFT Protest at 2. In other words, applicant will embark on a campaign of predatory pricing.

Predatory pricing claims, because they are premised on a temporary increase in competition, inherently ask the finder of fact to penalize potentially beneficial conduct.²⁰ Therefore, the complainant must establish that the alleged predatory conduct actually threatens to harm rather than advance the cause of competition.²¹ A complainant must show, first, that the defendant would be able to achieve a monopoly position in the relevant market, and, second, that it could sustain that position after it wields its power and raises prices.²²

CFT's protest satisfies neither of these requirements. CFT fails to allege any facts showing that applicant will have the kind of actual or probable market power necessary to exclude competitors. CFT also has failed to allege any facts demonstrating the market is capable of being monopolized or any facts concerning the relative market positions of CFT's members and other market participants.

Even if applicant could achieve monopoly power through low-priced services, there is no basis for believing applicant could sustain its monopoly once it raised prices. As noted above, this market is served by a number of competing carriers, car rental companies and private autos. Any of the existing carriers would be

²⁰ Dial A Car, 82 F.3d at 487 (citing Cargill, Inc. v. Monfort of Colorado, Inc., 479 U.S. 104, 122 n.17 (1986)).

²¹ Dial A Car, 82 F.3d at 487 (citing Brooke Group, Ltd. v. Brown & Williamson Tobacco Corp., 113 S. Ct. 2578, 2588-89 (1993)).

²² Dial A Car, 82 F.3d at 487. In order to recoup their losses, predators must obtain enough market power to set supracompetitive prices and then sustain those prices long enough to earn in excess profits what they gave up through below-cost pricing. Brooke Group, 113 S. Ct. at 2589.

free to undercut applicant as soon as applicant raised its prices above current market levels, and rental cars and private autos would remain attractive alternatives.

Equally important, the protest does not allege any barriers to entry. Predatory pricing is unlikely in an industry where the economic barriers to entry are low; without high entry barriers, such pricing is usually prevented by the threat of new entry.²³ "Where the barriers to entry are virtually nonexistent, potential entry, together with intermodal competition, exerts pressure on existing firms to price reasonably."²⁴ The motor passenger carrier industry is well known for its lack of barriers.²⁵

Summary disposition of a predatory pricing claim is appropriate where the market is highly diffuse and competitive, or new entry is easy.²⁶ Here, the market is both competitive and marked by ease of entry. We will, therefore, deny CFT's protest and request for discovery and oral hearing.

3. MAS's Protest

MAS complains that under the MWAA contract applicant "will receive certain concessions not provided to other shuttle companies," and MAS contends that the contract grants applicant nearly exclusive access to on-demand ground departures at the two airports. MAS Protest at 1. Under MWAA regulations, MAS has access to ground departures at the airports but only on a reservation basis. MAS bid on the MWAA contract but was not selected. MAS challenged the award of the contract to applicant in Arlington County Circuit Court, but MWAA prevailed.²⁷ Now, by protesting this application MAS would deny applicant the means of performing the contract. We believe that would be unwise policy and contrary to the holding in Executive Limo. Serv. v. Goldschmidt, 628 F.2d 115 (D.C. Cir. 1980).

In harmonizing the regulatory powers of WMATC with the contracting authority of the Federal Aviation Administration, MWAA's

²³ GLI Acquisition Co., 1988 Fed. Car. Cas. (CCH) ¶ 37,470 at 47,251, 1988 WL 226400 at *9 (I.C.C. May 27, 1988).

²⁴ Id. The Commission has the power to prevent supracompetitive pricing, in any event, under Title II of the Compact, Article XI, Section 16(a).

²⁵ See In re Alexandria, Barcroft & Wash. Transit Co., No. 137, Order No. 703 (Apr. 14, 1967) (high ratio of variable to fixed costs; principal assets mobile and short-lived); In re Washington, Va. & Md. Coach Co., No. 135, Order No. 702 (Apr. 14, 1967) (same); see also GLI Acquisition Co., 1988 Fed. Car. Cas. at 47,251, 1988 WL 226400 at *9 (same).

²⁶ Brooke Group, 113 S. Ct. at 2589; Dial A Car, 82 F.3d at 488.

²⁷ Cinicola Cos., Inc. v. MWAA, CH No. 95-934, Hearing Tr. at 18-21 (Va. Cir. Ct., Arl., Feb. 8, 1996) (bench ruling).

predecessor, the Goldschmidt Court counselled that "[n]either agency should use its authority to frustrate the efforts of the other." Id. at 122. Frustrating MWAA's decision to grant a WMATC carrier access to on-demand passengers for the first time in many years would be decidedly perverse. Accordingly, we will deny MAS's protest.

II. Application for Approval of Common Control

Applicant's shareholders have controlling interests in other carriers. Article XII, Section 3(a)(iii), of the Compact states that a person controlling a carrier shall obtain Commission approval to acquire control of a WMATC carrier through ownership of its stock or other means.

A. Common Control Relationships

Shareholder Barwood Operating Group, Inc., is under common control with Barwood, Inc., a taxicab company licensed by Montgomery County, MD. Executive Coach, Ltd., WMATC Carrier No. 177, is a wholly-owned subsidiary of Barwood, Inc. Applicant's Vice President/Treasurer, Lee Barnes, is the owner/president of Executive Sedan Management Services, Inc., trading as Washington Car & Driver, WMATC Carrier No. 265.

Shareholder Shuttle Express, Inc., is a wholly-owned subsidiary of Yellow Holding Co., Inc., which is the parent of various subsidiaries providing passenger transportation services throughout Maryland. Yellow Bus Service, Inc., trading as Yellow Transportation, WMATC Carrier No. 280, is a wholly-owned subsidiary of Yellow Holding Co., Inc. Applicant's President, Mark L. Joseph, is a member of Yellow Taxi, LLC, of Denver, Colorado, which operates a taxicab company as well as a SuperShuttle franchise at Denver International Airport.

Shareholder Transportation General, Inc., is the parent of four subsidiaries which provide taxicab and sedan services in Virginia and the DC metropolitan area, and which operate under the following trade names: Red Top Cab, Red Top Executive Sedan Service, Arlington Yellow Cab, Falls Church Yellow Cab, Five Star Sedan Service, and Fairfax Taxi. Transportation General, Inc., also manages Loudoun Yellow Cab.

Shareholder SuperShuttle, Inc., is the parent of various subsidiaries operating SuperShuttle franchises in Arizona, California and Texas. Applicant's Vice President, Mitchell S. Rouse, controls several taxicab companies operating in the Los Angeles, CA, area.

Shareholder The Convention Store, Inc., manages the parking lot shuttle service at National Airport.

B. Standard for Approval

Under Article XII, Section 3(b), of the Compact, the Commission may approve the acquisition of a WMATC carrier by a person controlling another carrier if the Commission finds the acquisition is consistent with the public interest. The public interest analysis focuses on the

fitness of the acquiring parties, the resulting competitive balance and the interests of affected employees.²⁸

Analysis of the relevant factors supports a finding of consistency with the public interest. The acquiring parties in this case are applicant's controlling shareholders. Our current finding of applicant's fitness permits an inference of the acquiring parties' fitness.²⁹ We have already found that applicant's operations are unlikely to have a significant adverse effect on competition. The interests of affected employees is not an issue where an applicant has no prior operations.³⁰

III. Tariff Challenges

Under applicant's proposed tariff, service is available to and from businesses and residences. In most cases, the residential rate exceeds the business rate for a given zip code area. DCTC and CFT challenge the rate differentials on the ground that they will produce fares which are unjust, unreasonable, unduly discriminatory, or unduly preferential between classes of riders or between locations within the Metropolitan District. CFT also argues that MWAA's contractual right to pre-approve applicant's rate changes is anti-competitive and, as with the rate differential, will produce fares which are unjust, unreasonable, unduly discriminatory, or unduly preferential.

Applicant explains that the lower business rate reflects the relatively higher average load density expected at business locations. We find this explanation reasonable. Regarding MWAA's contractual right to pre-approve rate changes, applicant is free to contract away its right to a reasonable return on investment if it so desires -- as long as it continues to provide safe and adequate service, equipment, and facilities.³¹ Although applicant is not free to contract away the rights of its passengers to competitive rates, we have ample authority to restrain supracompetitive pricing on a proper showing by an aggrieved riding public. In the meantime, even assuming applicant's current rates are below some appropriate measure of applicant's costs, "unsuccessful predation is in general a boon to consumers."³²

²⁸ In re Cavalier Transp. Co., Inc., t/a Tourtime America, Ltd., & Tourtime America Motorcoach, Ltd., No. AP-96-21, Order No. 4926 (Sept. 12, 1996). The "public benefit" inquiry was eliminated by Order No. 4926 as an element of the public interest analysis after this application was filed. We apply current law to pending applications. In re Capital City Limo., Inc., & Capital City Transp., Inc., No. AP-96-28, Order No. 4927 (Sept. 12, 1996).

²⁹ Order No. 4642 at 9.

³⁰ Id. at 8-9.

³¹ Compact, tit. II, art. XI, § 5(a).

³² Brooke Group, 113 S. Ct. at 2588.

IV. CFT's Standing

Applicant opposes CFT's participation as a protestant on the ground that CFT lacks standing, even though the Commission's Rules contemplate that an association may be properly regarded as a "party." Applicant alleges that CFT exists only for the purpose of pursuing the protest it has filed in this proceeding and that under Hunt v. Washington State Apple Advertising Comm'n, 432 U.S. 333, 97 S. Ct. 2434 (1977), to have standing, an association must have an "existence independent of the litigation it seeks to join." Applicant's Opposition to CFT's Request to be Named a Party at 2. We find no such limitation flowing from the Hunt opinion.

The holding in Hunt stands for the proposition that a self-supporting state agency, funded by the industry it protects and headed by industry-elected officials, has standing to represent the interests of that industry. Applying that holding to this proceeding yields the conclusion that DCTC has standing, not that CFT does not. The Commission in Hunt had standing in part because it served "a specialized segment of the State's economic community which is the primary beneficiary of its activities, including the prosecution of this kind of litigation." 97 S. Ct. at 2442 (emphasis added). Nowhere in Hunt does it state that prosecution of litigation advancing members' common interests cannot be an association's sole purpose. On the contrary, the Court acknowledged that if "the Commission were a voluntary membership organization . . . its standing to bring this action as the representative of its constituents would be clear." Id. at 2441.

Applicant would have us elevate form over substance. It is enough that individual carriers which have standing on their own voluntarily band together for the purpose of holding down their collective litigation costs. Recognizing such an organization as a legitimate party promotes administrative efficiency. We do not see what is to be gained by preventing protestants with standing from hiring the same attorney.

We have previously held that taxicabs have standing to challenge airport shuttle-van applications.³³ Thus, all of CFT's taxicab members having standing. Capital Tours & Transportation and Diamond Transportation Services clearly have standing. Consequently, we find CFT has standing.

³³ In re Malek Investment, Inc., t/a Montgomery Airport Shuttle, No. AP-91-44, Order No. 3884 (Feb. 11, 1992), aff'd in connected case, No. AP-91-45, Order No. 3915 (Mar. 25, 1992).

CONCLUSION

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 also finds that the proposed transportation and acquisition of control are consistent with the public interest.

The record discloses that applicant will share office space with shareholder Transportation General, Inc. 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.³⁴

THEREFORE, IT IS ORDERED:

1. That MWAA's Petition for Leave to Intervene is granted.
2. That MWAA, DCTC, CFT and MAS are named parties to this proceeding.
3. That the protests of DCTC, CFT and MAS are denied.
4. That the requests of DCTC and CFT for discovery and oral hearing are denied.
5. That Washington Shuttle, Inc., trading as SuperShuttle, 3251 Washington Boulevard, Arlington, VA 22201, is hereby conditionally granted, contingent upon timely compliance with the requirements of this order, authority to transport passengers, together with 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.
6. 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) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of

³⁴ In re Yellow Bus Serv., Inc., t/a Yellow Transp., No. AP-94-44, Order No. 4434 (Nov. 9, 1994); In re Executive Sedan Mgmt. Servs., Inc., t/a Washington Car & Driver, No. AP-94-26, Order No. 4354 (Aug. 1, 1994).

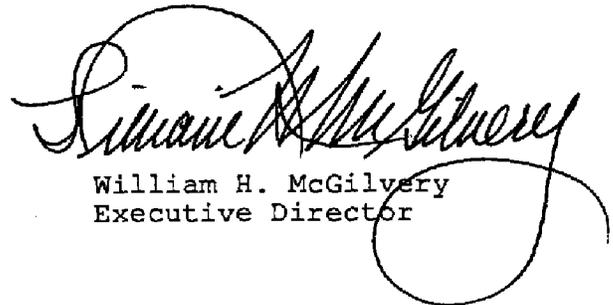
Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61, for which purpose WMATC No. 369 is hereby assigned.

7. That upon timely compliance with the requirements of the preceding paragraph and acceptance of the documents required by the Commission, Certificate of Authority No. 369 shall be issued to applicant.

8. 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.

9. 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 LIGON AND MILLER:



William H. McGilverey
Executive Director

CHAIRMAN ALEXANDER DISSENTS; OPINION TO FOLLOW.