

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5050

IN THE MATTER OF:

Served March 26, 1997

Application of LAIDLAW TRANSIT,)
INC., for Approval of Acquisition)
of Control and Transfer of)
Certificate No. 100 from NATIONAL)
SCHOOL BUS SERVICE, INC.)

Case No. AP-97-08

Laidlaw Transit, Inc. (Laidlaw Transit), and National School Bus Service, Inc. (NSBS), WMATC Carrier No. 100, (collectively applicants), seek Commission approval of Laidlaw Transit's acquisition of NSBS stock and subsequent merger of NSBS into Laidlaw Transit. The application is unopposed.

Laidlaw Transit operates through various subsidiaries and has been described as the largest provider of school bus transportation in the United States. See Laidlaw Acquisition Corp. v. Mayflower Group, Inc., 636 F. Supp. 1513 (S.D. Ind. 1986). One of those subsidiaries is Laidlaw Medical Transportation, Inc. (Laidlaw Medical), a common carrier operating under the trade name Medtrans. Laidlaw Medical owns Safe Ride Services, Inc. (Safe Ride), which has applied for its own certificate of authority.¹ Another Laidlaw subsidiary, Laidlaw Transit (Virginia) Inc., held Certificate No. 64 until its transfer to Williams Bus Lines, Inc., last year.²

After the merger, Laidlaw Transit will refile the NSBS tariff as its own and conduct operations in the Metropolitan District using school buses acquired from NSBS, along with vehicles Laidlaw Transit currently uses elsewhere.

The Commission may approve this application under Article XI, Section 11, and Article XII, Section 3, of the Compact, if the Commission finds the acquisition of control and subsequent merger consistent with the public interest.³ The public interest analysis under Article XII, Section 3, focuses on the acquiring party's

¹ In re Safe Ride Servs., Inc., No. AP-97-03, Order No. 4995 (Jan. 7, 1997).

² In re Laidlaw Transit (Virginia) Inc., & Williams Bus Lines, Inc., No. AP-96-46, Order No. 4957 (Oct. 24, 1996).

³ In re LCG, Inc., t/a Laurel Consulting Group, No. AP-96-63, Order No. 4991 (Jan. 6, 1997); 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); In re Boston Coach-Wash. Corp., No. AP-93-21, Order No. 4163 (Sept. 13, 1993); In re Peter Pan Bus Lines, Inc., No. AP-93-19, Order No. 4149 (Aug. 11, 1993).

fitness, the resulting competitive balance and the interests of affected employees.⁴ A presumption of fitness obtains where, as in this case, the acquiring party once controlled another WMATC carrier previously found fit.⁵

Approval of this application should create no adverse effect on competition. Safe Ride and NSBS will not be operating in the same market. Safe Ride and NSBS do not offer the same service. Safe Ride proposes to transport the handicapped and disabled to and from medical facilities in sedans and vans based on a per capita rate. NSBS provides charter service in school buses at a group rate. Neither service can be viewed realistically as a substitute for the other. Transactions which do not increase market share give the Commission little pause for concern.⁶

The Commission may safely approve even those transactions which tend to increase market share as long as there is sufficient intermodal and/or intramodal competition to check any anticompetitive effects that such transactions might otherwise produce.⁷ The large number of WMATC carriers competing in both markets indicates that competition from other carriers will be sufficient to counteract any anticompetitive effects which might conceivably follow from approval of this application.

According to Laidlaw Transit, it intends to comply with all collective bargaining agreements entered into by NSBS prior to Laidlaw's acquisition of NSBS stock, and no NSBS employees, other than senior management, will be terminated as a result of the acquisition or subsequent merger.

For the foregoing reasons, the Commission finds that Laidlaw Transit's acquisition of NSBS stock and the merger of NSBS into Laidlaw Transit, including the transfer of Certificate No. 100 from NSBS to Laidlaw Transit, are consistent with the public interest.

Although the record does not indicate that applicant shares office space with Safe Ride, each carrier, nonetheless, is admonished to keep its assets, books and operations completely separate from the other's. Sharing of office space is permissible, but this should not be construed as permission to share revenue vehicles or operating authority.⁸

⁴ Order No. 4991; Order No. 4926.

⁵ Order No. 4991; In re Executive Sedan Mgmt. Servs., Inc., t/a Washington Car & Driver, No. AP-94-26, Order No. 4354 (Aug. 1, 1994).

⁶ Order No. 4926.

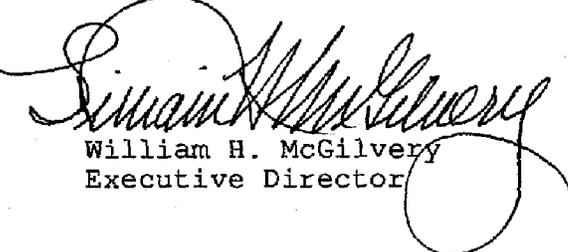
⁷ Id.

⁸ Order No. 4991; Order No. 4354.

THEREFORE, IT IS ORDERED:

1. That the acquisition of NSBS stock by Laidlaw Transit and merger of NSBS into Laidlaw Transit are hereby approved.
2. That upon Laidlaw Transit's timely compliance with the requirements of this order, Certificate of Authority No. 100 shall be reissued to Laidlaw Transit, Inc., 3221 North Service Road, Burlington, Ontario, Canada L7R 3Y8.
3. That Laidlaw Transit may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until Certificate No. 100 has been reissued in accordance with the preceding paragraph.
4. That Laidlaw Transit is hereby directed to file the following documents within thirty days of the merger of NSBS into Laidlaw Transit: (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 Virginia; (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61; and (g) a copy of the certificate of merger issued by the State of Delaware.
5. That the grant of authority herein shall be void and the application shall stand denied upon Laidlaw Transit's failure to timely satisfy the conditions of issuance prescribed herein.

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


William H. McGilvery
Executive Director

