

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5295

IN THE MATTER OF:

Served March 19, 1998

Application of COACH ONE, INC.,)
Trading as EXECUTIVE COACH, for a)
Certificate of Authority --)
Irregular Route Operations) Case No. AP-98-06

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. Applicant is under common control with the following carriers: (1) WMATC Carrier No. 177 (Executive Coach, Ltd.); (2) WMATC Carrier No. 265 (Executive Sedan Management Services, Inc., trading as Washington Car & Driver); (3) WMATC Carrier No. 369 (Washington Shuttle, Inc., trading as SuperShuttle); and (4) two local taxicab companies (Barwood, Inc., and Silver Spring Transportation Co.). The application is unopposed.

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.

Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Article XII, Section 3(a)(iii) & (c), authorizes the Commission to approve common control of two or more carriers, through ownership of stock or other means, if the Commission finds the acquisition is consistent with the public interest. The public interest analysis focuses on the fitness of the controlling party, the resulting competitive balance, and the interest of affected employees.¹

Applicant proposes commencing operations with twelve vehicles. Applicant's proposed contract tariff contains hourly rates for shuttle service to and from White Flint Mall in Montgomery County, Maryland. The contract has been assigned by Carrier No. 177 to applicant with

¹ DC Code Ann. § 1-2414 (1992); 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 consent of White Flint North Limited Partnership, the other party to the contract.

Applicant filed a balance sheet as of January 1, 1998, showing assets of \$364,119; liabilities of \$363,119; and equity of \$1,000. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC operating income of \$365,095; expenses of \$358,744; and net income of \$6,351.

According to applicant, it no longer intends to use the trade name, "Executive Coach," and it has hired the drivers that Carrier No. 177 would have used to perform the contract.

Applicant certifies it has access to, is familiar with, and will comply with the Compact and the Commission's rules and regulations thereunder.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

The Commission also finds the proposed common control is consistent with the public interest for the following reasons. First, our current finding of applicant's fitness permits an inference of the controlling parties' fitness.² Second, transferring the contract from one member of the controlled family to another will not increase the controlling parties' market share, which is the primary concern when assessing the effect of common control on competition.³ Finally, applicant has hired the affected drivers.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 430 shall be issued to Coach One, Inc., 4900 Nicholson Court, Kensington, MD 20895.

2. 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.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to

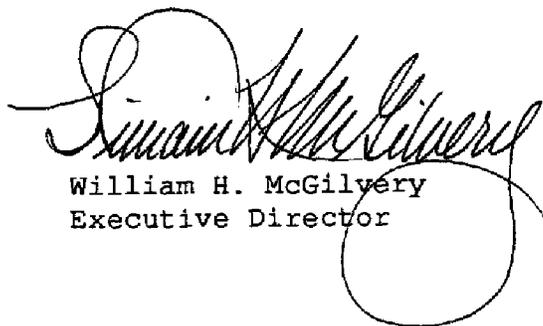
² In re Washington Shuttle, Inc., t/a Supershuttle, No. AP-96-13, Order No. 4966 at 10 (Nov. 8, 1996).

³ Order No. 4926 at 3.

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) a vehicle list stating the year, make, model, serial number, fleet 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; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant'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

