

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5783

IN THE MATTER OF:

Served January 13, 2000

Application of LOGISTICARE)
SOLUTIONS, LLC, Trading as)
LOGISTICARE, for Temporary)
Authority -- Irregular Route)
Operations)

Case No. AP-99-86

Applicant seeks temporary authority for irregular route operations in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed. Applicant also has applied for a certificate of authority in Case No. AP-99-87.

Under Title II of the Compact, Article XI, Section 13(a), the Commission may grant temporary authority if there is an immediate need for service that is not available. Under Regulation No. 54-06(a), a temporary authority applicant must demonstrate fitness.

Applicant proposes operating vans and sedans under a contract with the Washington Metropolitan Area Transit Authority (WMATA). The contract requires applicant to operate a reservation system for the benefit of disabled individuals participating in WMATA's MetroAccess program and to ensure that program participants receive timely and adequate transportation service. The MetroAccess program is WMATA's means of complying with the Americans with Disabilities Act of 1990,¹ which in pertinent part prohibits discrimination against the disabled by public transportation providers. Service under the contract is scheduled to commence January 15, 2000, and requires transportation of program participants between points in the Metropolitan District.

Much, but not all, of the transportation service will be subcontracted out to four current WMATC carriers² and one carrier that has applied for temporary and permanent WMATC authority.³ The subcontractors will operate vehicles furnished by applicant.

Applicant filed a balance sheet as of September 30, 1999, showing assets of \$25,174,000; liabilities of \$28,843,000; and negative equity of \$3,669,000. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATA

¹ 42 U.S.C. § 12101, et. seq. (1999).

² The four WMATC carriers are: Battle's Transportation, Inc., WMATC No. 62; Transportation Management Services, Inc., WMATC No. 170; Graham's Transportation Service, Inc., WMATC No. 307; and Answers, Inc., WMATC No. 488.

³ See In re Keen Transp. Ltd., No. AP-99-89, Order No. 5779 (Jan. 4, 2000); In re Keen Transp. Ltd., No. AP-99-88, Order No. 5777 (Dec. 22, 1999).

contract revenue of \$11,142,659; associated expenses of \$10,946,392; and net income of \$196,267.

Although applicant's negative equity raises the issue of applicant's financial fitness, the record supports a finding in applicant's favor. An applicant must demonstrate financial fitness by showing the present ability to sustain operations during its first year under WMATC authority.⁴ Applicant is a going concern projecting a net positive cash flow during the first twelve months of WMATC operations. We have⁵ found other carriers financially fit under similar circumstances.

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

The application is supported by an affidavit from Robert E. Vogel, acting director of WMATA's ADA and Paratransit office. According to Vogel, WMATA's existing contracts with WMATC carriers are due to expire January 15, 2000. WMATA expects applicant and its subcontractors to commence service under their respective contracts immediately thereafter. Vogel avers that applicant as the lead contractor could not be replaced without seriously disrupting service to program participants.

Based on the evidence in this record, the Commission finds 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 further finds that applicant has demonstrated WMATA has an immediate need for contract passenger carrier service meeting the full requirements of the MetroAccess program, including transportation of passengers between points in the Metropolitan District, and that such service is not available from existing providers. The lack of any protest from existing carriers corroborates applicant's showing.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, notice of temporary authority shall be issued to applicant authorizing applicant to commence transporting passengers for hire between points in the Metropolitan District, under the MetroAccess program, in vehicles with a seating capacity of less than 16 persons only, including the driver, for a period not to exceed 180 days.

⁴ In re Senior Citizen Counseling & Delivery Servs., No. AP-99-01, Order No. 5536 (Mar. 2, 1999).

⁵ E.g., Order No. 5536 (going concern projecting net positive cash flow); In re Southern Comfort Lines, Inc., No. AP-98-41, Order No. 5461 (Nov. 20, 1998) (same); In re Pioneer Coach & Travel, Inc., No. AP-98-13, Order No. 5318 (Apr. 30, 1998) (same); In re Limo. Pleasures, Inc., No. AP-97-64, Order No. 5274 (Feb. 17, 1998) (same).

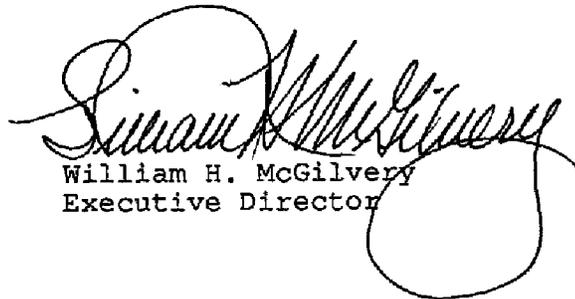
⁶ In re R.V. Goebel Family, Inc., No. AP-92-19, Order No. 3959 (June 18, 1992).

2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until notice of temporary 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 Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of temporary tariff no. AP-99-86 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) a copy of the vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, 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, for which purpose WMATC No. AP-99-86 is hereby assigned.

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

