

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 5956

IN THE MATTER OF:

Served August 10, 2000

Application of CHALLENGER)
TRANSPORTATION, INC., for)
Temporary Authority --)
Irregular Route Operations)

Case No. AP-2000-55

Applicant seeks temporary authority for irregular route operations in vehicles with a seating capacity of less than 16 persons only, including the driver.¹ The application is unopposed.

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 commencing operations with fourteen vans and six sedans. Applicant's proposed tariff contains hourly rates and per capita rates for service under a contract with LogistiCare Solutions, LLC, WMATC Carrier No. 524.

LogistiCare has a contract with the Washington Metropolitan Area Transit Authority (WMATA). The contract requires LogistiCare 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 1990,² which in pertinent part prohibits discrimination against the disabled by public transportation providers.

LogistiCare subcontracts much of the transportation service to other WMATC carriers and has selected Challenger to provide MetroAccess service in Montgomery County, Maryland, commencing July 1, 2000, using vehicles furnished by LogistiCare. Prior to July 1, this service had been furnished by Challenger's commonly-controlled affiliate, Regency Cab, Inc., under a contract with Montgomery County.

Applicant filed a balance sheet as of June 5, 2000, showing assets of \$103,327; liabilities of \$31,741; and equity of \$71,586. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$1,172,102; other revenue of \$139,536; expenses of \$1,256,891; and net income of \$54,747.

¹ Applicant also has applied for a certificate of authority in Case No. AP-2000-56.

² 42 U.S.C. § 12101, et. seq. (1999).

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 Kenneth L. Hoggard, operations manager for LogistiCare. According to Hoggard, LogistiCare will rely on Challenger to satisfy approximately thirty percent of the service in Montgomery County. Hoggard further attests that although LogistiCare has made temporary arrangements to satisfy this demand while Challenger's applications for WMATC authority are pending before this Commission, overall system reliability will suffer until such time as Challenger is authorized to operate its contract.

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 LogistiCare has an immediate need for reliable contract passenger carrier service between points in the Metropolitan District, sufficient to satisfy a substantial portion of WMATA's requirements under the MetroAccess program, and that adequate service is not available from existing providers on other than a short-term basis. The lack of any protest from existing carriers lends support to applicant's showing.

Challenger and Regency are admonished to keep their assets, books, finances and operations separate. Sharing of office space and parking facilities shall be permitted, but Challenger may not conduct WMATC operations in a vehicle with taxicab markings, and Regency may not use applicant's WMATC vehicles in taxicab operations.

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.

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.

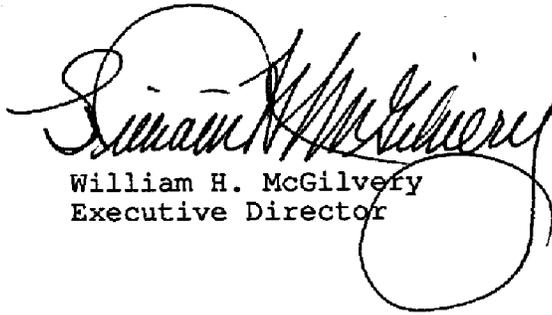
³ In re R.V. Goebel Family, Inc., No. AP-92-19, Order No. 3959 (June 8, 1992).

⁴ In re Medride, Inc., No. AP-2000-14, Order No. 5863 (Apr. 19, 2000); In re Action Airport Shuttle, Inc., No. AP-96-05, Order No. 4819 (Apr. 19, 1996).

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-99-89 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-99-89 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:

A large, stylized handwritten signature in black ink, which appears to read "William H. McGilvery". The signature is written in a cursive style with large loops and flourishes.

William H. McGilvery
Executive Director

