

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 6364

IN THE MATTER OF:

Served September 28, 2001

Application of D.C. TOURS, INC.,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2001-72

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District. Applicant's president is Madhu Sudan, WMATC Carrier No. 145.¹ The application is unopposed.

Applications for certificates of authority are governed by Title II of the Compact, Article XI, Section 7. Applications for approval of common control are governed by Article XII, Section 3.

I. CERTIFICATE OF AUTHORITY

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.

Applicant proposes commencing operations with one vehicle. Applicant's proposed tariff contains per capita sightseeing fares and per capita fares for transportation to and from Ronald Reagan Washington National and Washington-Dulles International Airports.

Applicant filed a balance sheet as of June 30, 2001, showing assets of \$10,000 and no liabilities. Applicant's projected operating statement for the first twelve months of WMATC operations shows WMATC revenue of \$77,500; other revenue of \$6,800; expenses of \$74,280; and net income of \$10,020.

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.

¹ Mr. Sudan has applied to transfer his certificate of authority to Capitol City Sights Inc. (CCSI) in Case No. AP-2001-71. Mr. Sudan is president of CCSI. Applicant is a subsidiary of CCSI. The transfer application is being approved this same date by separate order.

II. COMMON CONTROL

Article XII, Section 3(a)(iii) & (c), authorizes the Commission to approve common control of two or more WMATC carriers, through ownership of stock or other means, if the Commission finds that common control 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.²

The three public interest factors warrant approval in this case. First, a presumption of the controlling party's fitness obtains where the controlling party, in this case Mr. Sudan, is an existing WMATC carrier.³ There is nothing in the record to rebut that presumption in this case. Second, there should be no adverse effect on competition from the decision of Mr. Sudan to expand service in the Metropolitan District through a new corporation rather than amendment of his existing authority.⁴ Finally, the existing employees of Capital City Sights should not be adversely affected by our approval of this application. Launching a new service through a new entity tends to shield employees of the preexisting carrier from the consequences of any unprofitable operations under the new one.⁵

Each carrier is admonished to keep its assets, books, finances 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.⁶

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 643 shall be issued to D.C. Tours, Inc., 14 Nickelby Court, Damascus, MD 20872.

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 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)

² Act of Sept. 15, 1960, Pub. L. No. 86-794, § 3, 74 Stat. 1031, 1050 (1960) (codified at DC Code Ann. § 1-2414 (1999)); 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).

³ See In re Montgomery Assisted Transportation, Inc., No. AP-01-07, Order No. 6167 (Mar. 30, 2001) (presumption of controlling party's fitness obtains where controlling party controls an existing WMATC carrier).

⁴ See id. (expansion through affiliate rather than division).

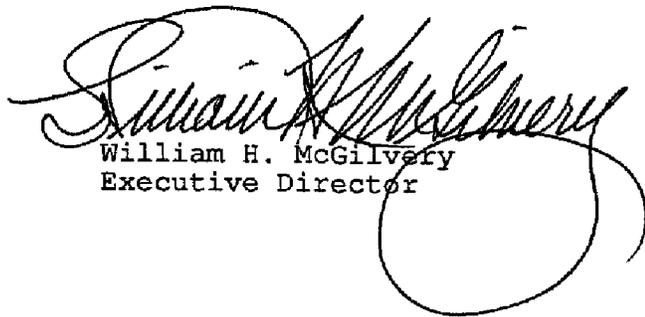
⁵ Id.

⁶ Id.

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.

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 YATES, LIGON, AND MILLER:



William H. McGilvery
Executive Director