

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1425

IN THE MATTER OF:

Application of BELTWAY )	Served May 12, 1975
LIMOUSINE SERVICE, INC., )	
for Certificate of )	Application No. 849
Public Convenience and )	
Necessity )	Docket No. 278

APPEARANCES:

ROBERT A. MANZI and PETER F. O'MALLEY,  
Attorneys for Beltway Limousine  
Service, Inc., applicant.

JEREMY KAHN and S. HARRISON KAHN,  
attorneys for Air Transit, Inc.,  
and Yellow Cab of Montgomery County,  
Inc., protestants.

DONALD J. BALSLEY, JR., Counsel for  
Washington Metropolitan Area Transit  
Commission.

By Application No. 849, dated November 22, 1974, Beltway Limousine Service, Inc. (Beltway) seeks a certificate of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport passengers and their baggage, over irregular routes, between Dulles International Airport (Dulles) Chantilly, Virginia, or Washington National Airport (National) Gravelly Point, Virginia, on the one hand, and on the other, points within the city limits of specified

communities 1/ in Montgomery County or Prince George's County, Maryland, and three specified hotels or motels 2/ in Montgomery County, Maryland, and ten specified hotels or motels 3/ in Prince George's County, Maryland.

Beltway filed a proposed tariff as part of its application. The proposed tariff sets forth the following fare schedule:

(A) Between National and a point within a city limit or municipal corporation, \$12 minimum or \$8 per person if two or more; (B) Between National and Montgomery County or Prince George's County hotels or motels, \$10 minimum or \$6 per person if two or more; (C) Between Dulles and cities within Montgomery County, \$14 per person; (D) Between Dulles and cities within Prince George's County, \$22 minimum or \$14 per person if two or more; (E) Between Dulles and Montgomery County hotels or motels, \$12 per person; and (F) Between Dulles and Prince George's County hotels or motels, \$20 minimum or \$12 per person if two or more. Beltway proposes to provide the service by appointment only. The proposed service would be rendered in 12 or 15 passenger vans.

Pursuant to Order No. 1386, served December 3, 1974, a hearing was held January 7 and 8, 1975, to develop an appropriate record. Air Transit, Inc. (Air Transit), Yellow Cab of Montgomery County (Yellow Cab), Barwood, Inc. (Barwood Cab), and Capital Cab of Prince George's County (Capital Cab) appeared at the hearing as protestants. Greyhound Airport Service, Inc. (Greyhound) filed a formal protest to the application but Greyhound did not appear at the hearing.

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1/ Beltsville, Bowie, Camp Springs, College Park, Gaithersburg, Greenbelt, Landover, Lanham, Largo, New Carrollton, Rockville, Seabrook and Upper Marlboro.

2/ Holiday Inn, Gaithersburg; Ramada Inn, Route 70-S, Gaithersburg; and Washingtonian Motel, Shady Grove Road, Gaithersburg.

3/ Hampshire Motor Inn, 7411 New Hampshire Avenue, Langley Park; Holiday Inn, Rt. 301 and Rt. 50, Bowie; Holiday Inn, 9137 Baltimore Blvd., College Park; Holiday Inn, 10000 Baltimore Blvd., College Park; Howard Johnsons - Washington, N. E., Baltimore - Washington Parkway, Cheverly; In State Inn, Allentown Road, Camp Springs; Interstate Inn, 8601 Baltimore Blvd., College Park; Quality Inn, 7200 Baltimore Blvd., College Park; Ramada Inn - Washington N. E., 5910 Princess Garden Parkway, Lanham; and Sheraton Inn - Washington N. E., 8500 Annapolis Road, New Carrollton.

By Order No. 1399, served January 22, 1975, Beltway's Application No. 855, filed January 10, 1975, was granted in part and denied in part. Beltway was temporarily 4/ authorized to transport passengers and their baggage between Dulles or National on the one hand, and on the other, three specified hotels or motels 5/ in Montgomery County, Maryland, and ten specified hotels or motels 6/ in Prince George's County, Maryland. Air Transit and Yellow Cab petitioned for reconsideration. By Order No. 1412, served March 18, 1975, the request was denied.

#### APPLICANT

Beltway is a Maryland corporation organized for the primary purpose of transporting persons and property for hire. When applications were filed with this Commission, Beltway held no operating authority from any governmental regulatory agency. Beltway owns two Dodge maxivans and leases two other maxivans. The interior of the owned maxivans has been modified to accommodate 11 passengers, with a separate compartment for baggage at the rear.

Beltway expects to operate 24 hours a day, seven days a week. There would be no scheduled service except as necessary to fulfill pre-arranged appointments. As planned, the operation primarily would entail transportation from the specified hotels, motels and other points in the designated municipalities, including private residences and office buildings, in the two counties in Maryland, to Dulles or National. As required, a particular vehicle might be dispatched to accommodate passengers at more than one location within the designated areas on a trip to Dulles or National. Every trip would be operated even if only one reservation has been received. Beltway also would provide service from Dulles or National to hotels, motels and other points in the designated municipalities for persons who have pre-arranged such transportation. Beltway would not accept passengers at Dulles or National who have not made prior arrangements.

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4/ The temporary authority became effective January 23, 1975, and shall remain in effect through July 21, 1975, unless otherwise ordered.

5/ See footnote 2.

6/ See footnote 3.

## PROTESTANTS

Air Transit 7/ is the exclusive operator of taxicabs 8/ from Dulles, pursuant to a concessionaire's contract with the Federal Aviation Administration. Its service area includes Montgomery County and Prince George's County. Air Transit is not authorized to solicit taxicab trips to Dulles which originate in these Maryland Counties. Air Transit's average operations per day involve approximately 30 trips from Dulles to Montgomery County points, including about 15 trips to the Gaithersburg and Rockville areas. It also operates approximately ten trips per day to points in Prince George's County. Air Transit indicates that its current taxicab fares from Dulles to representative points in the area it serves for one person are approximately as follows: Bethesda \$16, Rockville \$20, Lanham and New Carrollton \$26 to \$28, and the Capital Centre at Largo \$28.

Yellow Cab 9/ is based in Montgomery County. It operates approximately 54 radio equipped taxicabs. Yellow Cab operates from Montgomery County to Dulles or National. Approximately ten percent of its total revenues are derived from taxicab service from Montgomery County to these points. Taxicab trips originating at Dulles or National are made if pre-arranged and if the destination point is located within Montgomery County.

Barwood Cab is a Montgomery County based company and Capital Cab is a Prince George's County based company. These counties limit the number of taxicab licenses issued to persons operating taxicabs. Moreover, Prince George's County restricts service within the county to operators holding licenses issued by that county. Montgomery County has issued approximately 300 taxicab licenses and Prince George's County has issued approximately 500 taxicab licenses.

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7/ Air Transit is affiliated with Transportation, Inc., which operates the Red Top Cab Company based in Arlington County, Virginia.

8/ Motor vehicles for hire designed to carry eight persons or less, not including the driver. Air Transit operates approximately 60 such vehicles.

9/ Yellow Cab is affiliated with Central Courier Service, Inc., a specialized delivery messenger service.

## DISCUSSION AND CONCLUSION

The findings to be made by the Commission, after hearing, with respect to applications for certificates of public convenience and necessity are set forth in Title II, Article XII, Section 4(b) of the Compact. Essentially, the Commission must make two separate findings. First, the applicant must be "fit, willing and able" to perform the proposed transportation properly and to conform to the provisions of the Compact and the rules, regulations, and requirements of the Commission thereunder. Second, the proposed transportation "must be or will be required" by the public convenience and necessity. In addition, approval by the Commission of the proposed tariff must be based on a finding that the tariff is just, reasonable, and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. See Compact, Title II, Article XII, Section 6(a)(2).

At the hearing Air Transit and Yellow Cab challenged the fitness of Beltway. The record indicates that Beltway had operated for a period of time without authority from this Commission. See Order No. 1412, served March 18, 1975, at pages 2 and 3. The apparent unauthorized operations place a doubt upon Beltway's fitness to conduct operations on a permanent basis.

While the Commission does not condone the unauthorized operations, the Commission is satisfied that Beltway should not be estopped from performing similar authorized operations. The action by Beltway does not constitute such flagrant and persistent disregard of the Compact's provisions that would justify a finding that Beltway should be permanently or temporarily barred from providing transportation which is required by the public convenience and necessity. The record in this particular case supports a finding that Beltway is willing and able to properly operate in accordance with the Commission's rules and regulations.

As support for its application, Beltway presented the testimony of public witnesses. These witnesses represented either hotels or motels, local chambers of commerce, or a travel agency. The record indicates that there are a number of large corporations located near the hotels or motels to be served by Beltway. These corporations conduct training classes and a number of businessmen travelling to and from these corporations stay at the hotels or motels. The service currently offered by taxicab companies or Greyhound was stated to be undependable or inadequate to satisfy the plans of the travelling businessman. The support for Beltway's application is based on the unique aspect of appointment service.

This feature was stated to be advantageous to the needs of the travelling businessman.

The taxicab protestants opposed the application essentially on the basis that the proposed service was similar to a taxicab operation. The witnesses for protestants characterized the appointment-only service proposed by Beltway as being identical to the operation of taxicabs. The individual patrons of each are able to make advance reservations to satisfy their business needs. Upon occasion Beltway would proceed from the point of pickup directly to the airport.

The taxicab protestants contend that Beltway would be competitive with their taxicab operations. The witnesses for Yellow Cab and Barwood Cab stated that Beltway would compete on trips between National and points within Montgomery County and from Montgomery County to Dulles. The witness for Air Transit stated that Beltway would compete on trips from Dulles to either Montgomery County or Prince George's County. The primary competition would be price related. Beltway's proposed rates would be lower than the comparable charges for taxicab service.

The taxicab protestants indicate that approval of Beltway's application would result in a diversion of revenues. The witness for Air Transit stated that approximately ten per cent of its daily trips terminated in Prince George's County. The witness for Barwood indicated that it originates approximately seven trips per day in Gaithersburg and 35 trips per day in Rockville which terminate at one of the airports. The witness for Yellow Cab stated that ten per cent of the gross revenues collected in its taxicab operation results from trips involving one of the airports.

The taxicab witnesses testified that the effect of the Beltway service would be to reduce the taxicab operator's opportunity to make trips to the airports. These trips were stated to be necessary in order to compensate the taxicab operator for shorter trips within the county.

The threshold issue presented by the taxicab protestants is whether Beltway's proposed service would be a taxicab operation. The Compact, Title II, Article XII, Section 2(d) defines a taxicab as follows:

The term "taxicab" means any motor vehicle for hire (other than a vehicle operated, with the approval of the Commission, between fixed termini on regular schedules) designed to carry eight persons or less, not including the driver, used for the purpose of accepting or soliciting passengers for hire in transportation subject to this Act, along the public streets and highways, as the passengers may direct. (Emphasis added.)

The vehicle to be used by Beltway is designed to carry more than eight persons. The proposed service by Beltway would not be operated in such a manner as to accept or solicit passengers along the public streets and highways. Beltway's vehicle would not be subject to the directives of the passengers. Rather, the proposed service would be performed between specified points within Montgomery or Prince George's Counties, on the one hand, and on the other, either Dulles or National. The Commission does not believe that the proposed service would be a taxicab operation exempt from the certificating provisions of the Compact.

In order to authorize the transportation covered by the application, the Commission must find that the proposed transportation is or will be required by the public convenience. This requirement of the public convenience necessarily is dependent upon a finding that there is a need for the proposed service and a finding that authorization to perform the proposed service would not result in harmful or destructive competition.

The record contains sufficient testimony to support a finding that there is a need for appointment-only limousine service between Dulles or National on the one hand, and on the other, the three specified hotels or motels 10/ in Montgomery County and the ten specified hotels or motels 11/ in Prince George's County. There currently does exist a need by businessmen for this transportation service. The record does not support a finding that there is a need for appointment-only limousine service between Dulles or National on the one hand, and on the other, points within the city limits of specified communities 12/ in Montgomery County or Prince George's County.

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10/ See footnote 2 infra.

11/ See footnote 3 infra.

12/ See footnote 1 infra.

The record presents no satisfactory basis for finding that the taxicab protestants would be adversely affected by the proposed operations of Beltway. The record does set forth the opinion that Beltway's proposed service would divert a portion of the trips currently operated by taxicabs. However, the record does not support a finding that such diversion would be destructive of the service provided by the taxicab protestants.

The Commission finds that approval is required by the public convenience and necessity of Beltway's application for authority to perform appointment-only limousine service between Dulles or National on the one hand, and on the other, the three specified hotels or motels 13/ in Montgomery County, and the ten hotels or motels 14/ in Prince George's County. The Commission further finds that public convenience and necessity does not require approval of any other portion of Beltway's application.

The Compact bestows upon the Commission "the power to attach to the issuance of a certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require". See Compact, Title II, Article XII, Section 4(b). This grant of power to the Commission is subject to a restriction not herein relevant. The Commission believes that the authority granted to Beltway should contain a restriction on vehicle size. Beltway proposes to use 12 or 15 passenger vehicles. The certificate issued pursuant to the authority granted herein shall contain a restriction limiting the seating capacity of the vehicles to between 12 and 15 persons.

Beltway has submitted as part of its application a proposed tariff. The tariff sets forth rates for the transportation described in the application. The Commission shall consider only the rates with respect to the operations authorized herein. As previously mentioned, Beltway anticipates that the rate between National and a hotel or motel would be \$10 minimum or \$6 per person if more than one person occupies the vehicle on any single trip; that the rate between Dulles and a hotel or motel in Prince George's County would be \$20 minimum or \$12 per person if more than one person occupies the vehicle on any single trip and that the rate between Dulles and a hotel or motel in Montgomery County would be \$12 per person.

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13/ See footnote 2 infra.

14 See footnote 3 infra.



The record contains statements summarizing Beltway's unauthorized operations. Although this portion of the record was not used as a basis for finding that the public convenience required the proposed service, the Commission shall make use of these statements in determining whether the proposed tariff 15/ is just, reasonable, and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District.

The record indicates that Beltway operated approximately 1 trip involving Dulles to every 3 trips involving National during the period of unauthorized operations. For the period July 15, 1974 through November 30, 1974, the total number of trips and total number of persons transported were as follows:

Trips with one person . . . . .	393
Trips with two persons . . . . .	257
Trips with three or more persons . . . . .	177
Total number of trips . . . . .	827
Total number of persons transported . . . . .	2092

Beltway also submitted a statement of costs in relation to charges for one trip from the Rockville/Gaithersburg area to Dulles or National. This statement indicates that the cost per trip was \$13.28.

Using the foregoing information it is possible to project the future revenue and revenue deductions for Beltway under the proposed tariff. The projected amounts set forth herein represent a four and one-half month period. This period corresponds to the historical data period. Assuming that the trips are divided so that one-fourth involved Dulles and three-fourths involve National, the following would be the projected trips:

	Dulles	National
Trips with one person	98	295
Trips with two persons	64	193
Trips with three or more persons	<u>44</u>	<u>133</u>
Total number of trips	206	621

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15/ The proposed tariff is the same as the tariff currently filed pursuant to Order No. 1399, served January 22, 1975. See footnote 4 infra.

The revenue projection is determined by multiplying the proposed rate times the number of passengers. The record indicates that 1185 persons were transported on trips with three or more. This patronage has been divided by the same ratio as the trips. The results of these calculations are set forth below.

REVENUES UNDER  
PROPOSED RATES

	Dulles	National
Trips with one person	\$1176*	\$2950
Trips with two persons	1536	2316
Trips with three or more persons	3552	5334

\*Assumes only transportation involving Montgomery County.

The total revenue under the proposed rates would be \$16,864. The cost of generating this revenue would be \$10,982. The gross margin (before taxes) would be \$5,882. Applying a rate of 50 percent for taxes, the amount of tax liability would be \$2,941. The net operating income would be \$2,941 and the ratio of revenues deductions to revenues would be equivalent to 82.6 percent and the return on gross operating revenues would be 17.4 percent. The Commission does not believe that the proposed fares are just and reasonable.

The Compact, Title II, Article XII, Section 6(a)(2) mandates that the Commission shall issue an order prescribing the lawful fare. The Commission shall prescribe the following rates: for transportation between Dulles and a hotel or motel in either Montgomery County or Prince George's County, \$10 per person and for transportation between National and a hotel or motel in either Montgomery or Prince George's County, \$5 per person. The results of the Commission's projection of future revenues are set forth below:

REVENUES UNDER  
AUTHORIZED RATES

	Dulles	National
Trips with one person	\$ 980*	\$1475
Trips with two persons	1280	1930
Trips with three or more persons	2960	4445

\*Assumes only transportation involving Montgomery County.

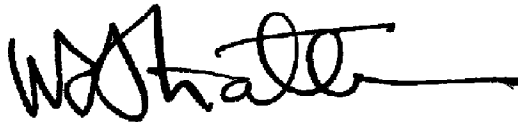
The total revenue under the authorized rates would be \$13,070. The gross margin would be \$2,087. After applying a rate of 50 percent for taxes, the net operating income would be \$1,043. The return on gross operating revenues would be approximately 8 percent. The Commission concludes that the authorized rates are just, reasonable and not unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District. Beltway shall be directed to file a tariff in accordance with the authority herein granted setting forth the rates herein authorized.

The Commission has considered the other matters pressed by the parties but finds they do not warrant action contrary to that which is now directed.

**THEREFORE, IT IS ORDERED:**

1. That Application No. 849 of Beltway Limousine Service, Inc., be, and it is hereby, granted in part and denied in part.
2. That Beltway Limousine Service, Inc., be, and it is hereby, issued Certificate of Public Convenience and Necessity No. 25 , as attached hereto and made a part hereof.
3. That Beltway Limousine Service, Inc., be, and it is hereby, directed to file WMATC Tariff No. 1 in accordance with the authority granted herein and the rates authorized hereby, such tariff to be issued no later than May 19, 1975 and to be effective May 21, 1975.
4. That the temporary authority granted Beltway Limousine Service, Inc., by Order No. 1399, served January 22, 1975, be, and it is hereby, terminated effective May 21, 1975.

BY DIRECTION OF THE COMMISSION



WILLIAM R. STRATTON  
Vice Chairman

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 25

BELTWAY LIMOUSINE SERVICE, INC.  
SILVER SPRING, MARYLAND

By Order No. 1425 of the Washington Metropolitan Area Transit Commission issued May 12, 1975.

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 1425.

THEREFORE, IT IS ORDERED, that the said carrier be, and it is hereby, granted this certificate of public convenience and necessity as evidence of the authority of the holder to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions and limitations as are now, or may hereafter be attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

SPECIAL OPERATIONS; limited to by appointment only:

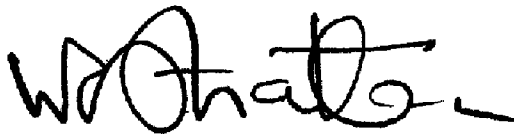
Between the Dulles International Airport, Chantilly, Virginia, or Washington National Airport, Gravelly Point, Virginia, on the one hand, and on the other, Hampshire Motor Inn, 7411 New Hampshire Avenue, Langley Park, Maryland; Holiday Inn, Route 301 and Route 50,

Bowie, Maryland; Holiday Inn, 9137 Baltimore Boulevard, College Park, Maryland; Holiday Inn, 10000 Baltimore Boulevard, College Park, Maryland; Holiday Inn, Gaithersburg, Maryland; Howard Johnsons-Washington N. E., Baltimore-Washington Parkway, Cheverly, Maryland; In State Inn, Allentown Road, Camp Springs, Maryland; Interstate Inn, 8601 Baltimore Boulevard, College Park, Maryland; Quality Inn, 7200 Baltimore Boulevard, College Park, Maryland; Ramada Inn, Route 70S, Gaithersburg, Maryland; Ramada Inn-Washington N. E., 5910 Princess Garden Parkway, Lanham, Maryland; Sheraton Inn-Washington N. E., 8500 Annapolis Road, New Carrollton, Maryland; and Washingtonian Motel, Shady Grove Road, Gaithersburg, Maryland.

RESTRICTED to the performance of such operations in vehicles with a seating capacity of twelve (12) to fifteen (15) persons.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous and adequate service to the public in pursuance of the authority granted herein, and that failure so to do shall constitute sufficient grounds for suspension, change or revocation of the certificate.

BY DIRECTION OF THE COMMISSION:

A handwritten signature in black ink, appearing to read 'W. R. Stratton', with a horizontal line extending to the right.

WILLIAM R. STRATTON  
Vice Chairman