

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1701

IN THE MATTER OF:

Served May 24, 1977

Application of ATWOOD'S TRANSPORT LINES, INC., for Certificate of Public Convenience and Necessity-Charter Operations Pursuant to Contract with National Geographic Society)	Application No. 983
)	
Application of ATWOOD'S TRANSPORT LINES, INC., for Certificate of Public Convenience and Necessity-Charter Operations from and to Dulles International Airport)	Application No. 984
)	Consolidated Docket No. 364

By Application Nos. 983 and 984, Atwood's Transport Lines, Inc., (Atwood's), seeks certificates of public convenience and necessity, pursuant to Title II, Article XII, Section 4(b) of the Compact, to transport passengers and mail, express and baggage, in the same vehicles with passengers, (a) in No. 983, in charter operations pursuant to contract with National Geographic Society (NGS) from points within the Metropolitan District to points within the Metropolitan District, and (b) in No. 984, in charter operations, between Dulles International Airport and points in the Metropolitan District. Service in both operations would be performed in over-the-road motor coaches equipped with air conditioning and reclining seats, and with a seating capacity ranging from 38 to 49 passengers per coach.

Essentially, the operation proposed in No. 983 is a rush-hour commuter service for employees of NGS travelling to and from their place of work at Gaithersburg, Md. No per capita charges are involved, and applicant's current contract with NGS provides that round-trip, per-bus charges over each of eight routes shall be as follows:

<u>Route No.</u>	<u>Price</u>	<u>Route No.</u>	<u>Price</u>
1	\$157	5	\$136
2	117	7	87
3	108	8	100
4	124	10	106

From April 1, 1971, until February 27, 1977, Applicant provided such service, transporting approximately 280 to 300 NGS employees a day without appropriate authority. Applicant asserted that it erroneously believed that its existing operating rights authorized it to provide the involved charter service. Temporary authority to conduct the operations specified in the above-referenced contract was granted by Order No. 1653 served February 28, 1977.

The service proposed in Application No. 984 is charter operations from or to Dulles International Airport including one-way transfers at a per-bus rate of \$80. Applicant had been performing this service without authority, but ceased such operations as of February 11, 1977, on the advice of counsel. Temporary authority to perform this service was granted by Order No. 1663, served March 18, 1977.

Pursuant to Order No. 1654, served March 1, 1977, and incorporated herein by reference, Application Nos. 983 and 984 were scheduled for public hearing to commence Monday, April 18, 1977, at 9:30 a.m. at the Commission. Notice of the hearing was duly published and posted in Applicant's vehicles. No persons appeared to present evidence in opposition to the applications.

At the hearing Atwood's introduced its contract with NGS. The director of purchasing for NGS testified to the need for the service proposed by Atwood's in Application No. 983, from points within the District of Columbia and Prince George's County, Md. to NGS and return. Atwood's testified that all service involved in Application No. 983 would originate in the District of Columbia and Prince George's County, Md. and return there in the evening. There are no plans at present to extend service to other points in the Metropolitan District.

At the hearing four witnesses testified to the need for the service proposed in Application No. 984. These witnesses stated that Atwood's proposed charter operations between Dulles International Airport and points in the Metropolitan District were essential to the success of their respective organization's activities. The witnesses also testified to the good quality of Atwood's services to date.

Atwood's testified that when it realized it was providing service without appropriate authority, it ceased such operations, made alternate arrangements and sought temporary authority from this Commission.

At the hearing, Atwood's introduced its equipment list as well as its balance sheet as of December 31, 1976, its income statement for 1976, and its statement of projected income for 1977 showing anticipated profit of \$16,000 for the services proposed herein.

FINDINGS AND CONCLUSIONS

The findings to be made by the Commission, after hearing, with respect to an application for a certificate 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.

The Commission finds that the Applicant is 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 thereof. The evidence shows that Applicant has done a good job in rendering the proposed services in the past and that Applicant has the necessary financial resources and equipment to render good service in the future. Although it provided the proposed services for years without an appropriate certificate of public convenience and necessity, when so advised by its counsel, Applicant expeditiously took the necessary steps to obtain the proper authority. Considering the facts and circumstances of this case, the Commission concludes that a finding of unfitness is not warranted herein. Applicant, however, is admonished that future transgressions will not be treated so leniently and may result in decisions against Applicant's interest.

The Commission also finds that, except as noted below, the proposed transportation is required by the public convenience and necessity. The uncontroverted testimony of Applicant's witnesses has clearly demonstrated the need for the service authorized below. With respect to Application No. 983, the Commission finds from the NGS contract and testimony of witnesses that the authority requested is broader than that needed for Atwood's to fulfill its contractual obligations. Accordingly, service will only be authorized from points in the District of Columbia and Prince George's County, Md., to the facilities of NGS and return. The Commission also notes that the authority sought in Application No. 984 duplicates, to a certain extent, Applicant's currently held operating rights. This duplication shall be eliminated. Moreover, the authority granted pursuant to Application No. 984 shall be restricted against transportation solely between points in Virginia. See Compact, Title II, Article XII, Section 1(b).

The final determination to be made by the Commission is whether the proposed tariff is "unjust, unreasonable, or unduly preferential or unduly discriminatory either between riders or sections of the Metropolitan District." See Compact, Title II, Article XII, Section 6(a)(2). The Commission finds that Applicant's proposed rates for the

services authorized herein are just, reasonable, non-preferential and non-discriminatory between riders or sections of the Metropolitan District.

THEREFORE, IT IS ORDERED:

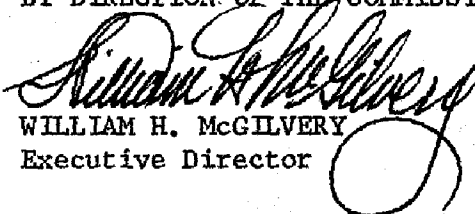
1. That Application No. 983 and 984 of Atwood's Transport Lines, Inc., be, and they are hereby, granted in part and denied in part.

2. That Certificate of Public Convenience and Necessity No. 14 be, and it is hereby revised and reissued to Atwood's Transport Lines, Inc., as attached hereto and made a part hereof.

3. That Atwood's Transport Lines, Inc., within 20 days from the date of service of this order, file an appropriate tariff or supplement to its WMATC Tariff No. 18, to be effective upon acceptance by the Executive Director.

4. That the temporary authorities granted to Atwood's Transport Lines, Inc., by Order Nos. 1653 and 1663 served February 28 and March 18, 1977 respectively, be, and they are hereby revoked effective 20 days from the date of service hereof.

BY DIRECTION OF THE COMMISSION:


WILLIAM H. MCGILVER
Executive Director

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

NO. 14

ATWOOD'S TRANSPORT LINES, INC.

TUXEDO, MARYLAND

By Order Nos. 1436 and 1701 of the Washington Metropolitan Area Transit Commission issued June 11, 1975 and May 24, 1977;

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 District as a carrier, for the reasons and subject to the limitations set forth in Order Nos. 1436 and 1701;

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 thereof 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 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:

Passengers and their baggage, and express, mail and newspapers in the same vehicle:

PART A.

REGULAR ROUTES:

Between Washington, D. C., and the Prince George's-Charles County line, and all intermediate points, except intra-District points:

From Washington, over city streets to the District of Columbia-Maryland State line, thence over Maryland Highway 5 to Prince George's-Charles County line, and return over the same route.

PART B

IRREGULAR ROUTES:

CHARTER OPERATIONS, round-trip or one-way:

1. From Washington, D. C., to points in the Metropolitan District.
2. From points in an area within one mile of the following route: From the District of Columbia-Maryland line over U. S. Highway 240 to junction Maryland Highway 118, thence over Maryland Highway 118 to the site of the United States Atomic Energy Commission to points in the Metropolitan District.
3. From points in an area within one mile of the following route: From the District of Columbia-Maryland line over Maryland Highway 5 to the Prince George's-Charles County line to points in the Metropolitan District.

PART C

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passengers having a prior or subsequent movement by air:

1. From Dulles International Airport, Chantilly, Va., to points in the Metropolitan District.
2. From points in the Metropolitan District (except Washington, D. C., and points in an area within one mile of the routes described in Part B, (2) and (3) above) to Dulles International Airport, Chantilly, Va.

RESTRICTED against transportation solely between points in Virginia.

PART D

IRREGULAR ROUTES

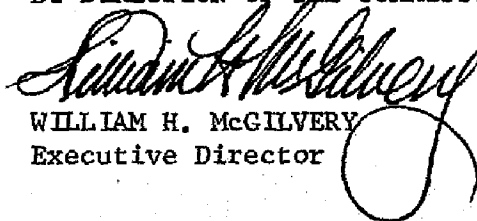
CHARTER OPERATIONS PURSUANT TO CONTRACT: from points in the District of Columbia and Prince George's County, Md., to the facilities of National Geographic Society at Gaithersburg, Md., and return.

RESTRICTED to transportation pursuant to a continuing contract or contracts with National Geographic Society.

IT IS FURTHER ORDERED that the operations authorized by Part D of this certificate of public convenience and necessity shall be limited to the performance of service pursuant to a continuing contract or contracts between Atwood's Transport Lines, Inc., and National Geographic Society, provided, however, that written notice must be filed by the carrier with the Commission within five (5) days of any cancellation or termination of any of the aforementioned agreements, and further provided that any change in or amendment to any of the aforementioned agreements shall be filed with the Commission for approval at least fifteen (15) days prior to the proposed effective date of such change or amendment, and further provided that any change or amendment to any of the aforementioned agreements which would involve new authority shall be subject to the provisions of the Washington Metropolitan Area Transit Regulation Compact and the Rules and Regulations of the Commission.

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:


WILLIAM H. MCGILVERY
Executive Director