

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2118

IN THE MATTER OF:

Served June 11, 1980

Application of RODWELL BUCKLEY to)
Transfer Certificate No. 50 to)
ELROD TRANSPORTATION SERVICE, INC.)

Case No. AP-80-08

By Order No. 2099, served April 11, 1980, the Commission scheduled a public hearing on this matter, directed that notice thereof be published, set a date for the filing of protests and required the applicant to file certain statements. The order further provided:

In the event that no protests are filed by the date established therefor, applicant may file no later than May 28, 1980, with the Commission a motion (a) waiving its right to a public hearing, (b) seeking relief from the assessment to cover the costs of that hearing and (c) requesting a decision based on the pleadings of record. All affidavits and statements required to be produced at or before the hearing should accompany applicant's motion.

No protests were filed, and on May 20, 1980, applicant filed the referenced motion and supporting affidavits and statements.

In addition to the evidence summarized in Order No. 2099 and incorporated by reference herein, Buckley submitted affidavits attesting to proper publication of notice. Buckley further states that he (55 shares) and his wife (45 shares) own all the outstanding stock of Elrod Transportation Service, Inc. The officers and directors of the corporation are (with one possible exception) members of Buckley's immediate family. Finally, Buckley indicates that all assets and liabilities of the proprietorship will be transferred to the corporation and that the same income and expense pattern experienced in 1979 is projected for 1980.

Inasmuch as Elrod Transportation Service, Inc., is not a carrier, Title II, Article XII, Section 12 is inapplicable. The application, therefore, is being handled under Title II, Article XII, Section 4(h) of the Compact which provides that

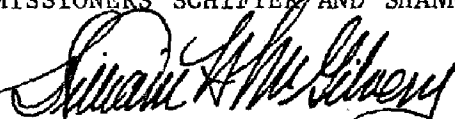
No certificate under this section may be transferred unless such transfer is approved by the Commission as being consistent with the public interest.

The evidence of record shows that the same management and resources involved in the proprietorship will support the corporate entity. Assuming that the transaction is consummated in accordance with the terms of the application, no detrimental effect to the carrier or the public is apparent. Accordingly, we find that the transfer is consistent with the public interest and shall grant the application as set forth below.

THEREFORE, IT IS ORDERED:

1. That applicant's motion is hereby granted.
2. That the transfer of Certificate of Public Convenience and Necessity No. 50 from Rodwell Buckley to Elrod Transportation Service, Inc., is hereby approved subject to the conditions set forth below.
3. That Elrod Transportation Service, Inc., is hereby directed to file with the Commission within 30 days from the date of service hereof, or within such additional time as may be authorized, an affidavit certifying that all assets and liabilities of the proprietorship have been transferred to the corporation and that the transaction has been consummated.
4. That upon receipt of the documents to be filed, a new Certificate No. 50 shall be issued.
5. That in the event applicant fails to comply with the requirement of the second preceding paragraph within the time established therefor or any extension thereof, the application shall stand denied in its entirety effective upon the expiration of the time set for compliance.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS SCHLIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director