

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2362

IN THE MATTER OF:

Served September 2, 1982

Application of NIPPON TRANSPORTA-)
TION SERVICE, INC., for a)
Certificate of Public Convenience)
and Necessity to Engage in Charter)
Operations)

Case No. AP-82-03

By application filed March 8, 1982, as amended, Nippon Transportation Service, Inc., seeks a certificate of public convenience and necessity to transport passengers and their baggage, in charter operations, between points in the Metropolitan District, restricted to service provided in vehicles with a seating capacity of between 16 and 21 passengers. Pursuant to Order No. 2324, served March 16, 1982, and incorporated by reference herein, public hearings on this application were held on April 21 and June 22, 1982. International Limousine Service, Inc., appeared in opposition to the application, and presented an opening statement for the record, but did not further participate in the hearing.

The president of Nippon testified that the firm has been conducting business for about eight years providing sightseeing service in limousines for tour and business groups which are usually pre-formed prior to arrival in Washington, D. C. For larger groups arrangements are made, usually with Gold Line, Inc., to charter motor coach equipment, or with International for minibus equipment. The purpose of this application is to receive operating authority for a minibus capable of transporting groups of up to 20 passengers. The witness stated that, in 1981, Nippon booked about 50 percent (102 charter groups) of its sightseeing service through one travel agency, World Gate Tours. Approximately one-half of this subtotal consisted of groups comprised of 20 or fewer passengers, with just a few containing less than eight passengers (who would continue to be transported in the company's own limousines). It was estimated that Nippon would handle about 120 charter groups for World Gate in 1982. In all cases these groups are made up of Japanese-speaking persons. Nippon's president testified that in 1981 the company arranged sightseeing transportation for 93 charter groups pre-formed by other travel agencies in Japan. Approximately 40 percent of these groups contained 20 or fewer passengers.

Work was also performed for about 200 charter groups in 1981, including the Embassy of Japan and business organizations. This transportation was primarily non-sightseeing and consisted almost entirely of very small groups relying on limousine service. Nippon's president stated that Nippon may want to use its minibus for business groups larger than eight people in the future, but that motor coach equipment would continue to be used for all charter groups in excess of 34 passengers.

Evidence was introduced concerning the carrier's safety program and its proposed tariff. The safety program generally describes procedures adopted to maximize safety and minimize the hazards for passengers. With respect to the tariff provisions, the president stated that no garage or deadhead time was to be included in the rate structure. The tariff states that charter parties are pre-arranged by travel agencies in Japan and those in the United States which are either Japanese or oriented to the Japanese market. Half-day charges involve a minimum charge for four hours and any charter in excess of four hours will be charged as a full-day fare. A full-day charge is defined as seven hours, with service in excess of seven hours to be charged at hourly rates.

The secretary-treasurer of Nippon explained the company's accounting system. An accountant retained by Nippon prepared a balance sheet and income statement for the first quarter of 1982 from the books and records of Nippon. In addition, he testified regarding those statements as well as a statement of projected revenue and expenses for a 12-month period ending June 30, 1983, and stated that he established a regular system for keeping books and records for future periods.

A New York-based representative of World Gate Tours and Hasegawa Travel Agency testified that she has worked with Nippon for about eight years, forwarding requests for transportation in the Metropolitan District. Her companies handle inbound traffic from Japan, arranging for sightseeing and other transportation as well as Japanese-speaking guides and other needs. In 1981, she sent approximately 100 tour groups to Nippon, involving about 1,200 people. A 20-percent increase is expected in 1982. The witness stated that about 40 percent of the groups she sends to Washington, D. C., are made up of less than 20 passengers, but more and more groups are falling into the 10 - 20 passenger size.

An employee of Mitsui & Company, one of the business organizations using Nippon's limousine services, testified that she arranges transportation for the company. She stated that she is satisfied with the service received. In a five-month period in 1981 she placed between 50 and 60 orders for service, but none were for groups of 10 - 20 passengers. No orders in 1982 have been for groups likely to use a minibus vehicle.

The parties entered a stipulation that Nippon was able to present three additional witnesses who would further corroborate evidence already adduced on the record.

Protestant International offered a statement on the record concerning the fragmentation of the transportation market by carriers serving specialized interests. The carrier did not offer any evidence on its behalf, did not cross-examine any witnesses, and did not participate further in the hearing. Such an unsupported presentation warrants little consideration in this case.

The Compact, Title II, Article XII, Section 4(b) provides that a certificate of public convenience and necessity shall be issued by the Commission if it finds ". . . that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of the Act and the rules, regulations, and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise, such application shall be denied."

The Commission finds that Nippon has sustained its burden of proof regarding the matter of need for service. Evidence presented by applicant shows a need for charter service transporting passengers and their baggage in vehicles with a seating capacity of between 16 and 21 passengers between points in the Metropolitan District. The travel agent testified to a need for service in the Metropolitan District for tour groups pre-formed in Japan among Japanese tourists. Nippon's other supporting witness, however, spoke only to the use of limousine service (for groups of less than eight passengers) and stated that none of the trips she has arranged have been for groups of 10 - 20 passengers. She stated that she has not placed any orders for service in 1982 for groups that would use a minibus.

Inasmuch as the only supporting testimony for use of the minibus came from the travel agent, the grant of authority herein will be restricted to transportation performed for bona fide travel agencies or tour brokers. The testimony of Nippon's president that the company may in the future want to use the minibus for business groups consisting of more than eight passengers is not sufficient to support a broader grant of authority than what is contained herein. While the evidence is limited to transportation for Japanese-speaking persons, the carrier is on notice that as a common carrier, it is obligated to perform service for all charter parties coming within the ambit of its operating authority, subject to equipment availability.

With respect to the matter of fitness, we find that Nippon is financially and otherwise fit to operate. Regarding Nippon's tariff, the Commission notes that the proposed rates include use of a "Japanese speaking guide/driver." Presumably, this is one individual providing

guide and driving services. To the extent charter groups request additional personnel to accompany the driver for the purpose of providing interpretive service, a provision in the tariff should set forth this service, with the charge to be passed through to passengers at its actual cost to Nippon or at a reasonable fixed rate. Additionally, it is apparent from testimony adduced at the public hearing that the tariff was structured with Japanese tour groups in mind. The tariff should be restructured to establish rates to be charged to the general traveling public, with any other services to be charged at a separate rate.

The rates contained in the tariff are high, especially when compared to the effective tariffs published by the existing minibus industry. Airport transfer service and sightseeing service as well as the combination service of airport transfer and sightseeing are very expensive. The half-day sightseeing service averages to \$55 an hour and the combination service rises to \$67.50 an hour for service connected to a National Airport transfer and \$85 an hour for a combination of sightseeing and a Dulles Airport transfer. Also, the incremental charges for service in excess of four hours are not clear, and must be set forth more specifically.

Accordingly, a new tariff must be prepared and filed to eliminate the above-described problems concerning the use of additional personnel for guide service and the rate structure for non-Japanese tour groups. Notwithstanding the carrier's desire to provide a personalized service for its clientele, the carrier should consider structuring its revised general tariff at a lower rate scale with additional services provided at an extra charge. We note that the carrier's projection of revenue and revenue deductions shows an operating ratio of 90.5 percent, in excess of the Compact guideline of 93.5 percent. */ We will withhold approval of rates pending the filing by applicant of an acceptable tariff that eliminates these problems.

THEREFORE, IT IS ORDERED:

1. That Nippon Transportation Service, Inc., is hereby granted authority to transport passengers, together with baggage in the same vehicle with passengers, in charter operations between points in the Metropolitan District, restricted (1) to service in vehicles with a manufacturer's designed seating capacity of 16 to 21 passengers including the driver and (2) to transportation performed for bona fide travel agencies or tour brokers, and restricted against transportation solely between points in Virginia.

*/ Compact, Title II, Article XII, Section 6(a)(4).

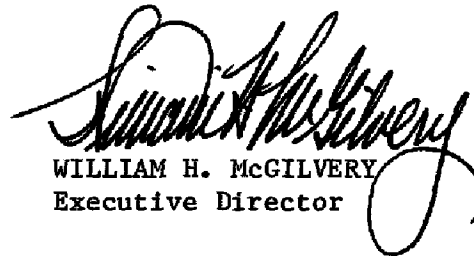
2. That Nippon Transportation Service, Inc., is hereby directed to file (a) a certificate of insurance as required by Commission Regulation No. 62, and (b) an affidavit of compliance with Commission Regulation No. 68 governing identification of motor vehicles, for which purpose WMATC No. 77 is hereby assigned.

3. That Nippon Transportation Service, Inc., is hereby directed to file two copies of its revised WMATC Tariff No. 1 as required by Commission Regulation No. 55, to eliminate the problems specified in the text of this Order.

4. That upon timely compliance by Nippon Transportation Service, Inc., with the directives set forth in paragraph 2 above and the filing and approval by the Commission of a tariff as required in paragraph 3 above, an appropriate Certificate of Public Convenience and Necessity No. 77 will be issued.

5. That unless compliance with the provisions of the preceding paragraph is effected within 30 days from the date of service hereof or such additional time as the Commission may authorize, the grant of authority made herein shall be void and the application shall stand denied in its entirety effective upon expiration of the said compliance time.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:


WILLIAM H. MCGILVERY
Executive Director