

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2378

IN THE MATTER OF:

Served October 26, 1982

Application of LOUIS MILLER for)
Temporary Authority to Conduct)
Sightseeing Operations -- Va. to)
D. C.)

Case No. AP-82-13

Application of LOUIS MILLER for)
a Certificate of Public)
Convenience and Necessity to)
Conduct Special Operations -- Va.)
to D. C.)

Case No. AP-82-14

By applications filed October 20, 1982, Louis Miller 1/ seeks both temporary authority and a certificate of public convenience and necessity to engage in special operations, limited to sightseeing, transporting passengers from motels located on those parts of U. S. Highways 50 and 29 situated in the City of Falls Church and Arlington and Fairfax Counties, Va., to points in that part of the Metropolitan District located in the District of Columbia and the State of Virginia, and return. 2/ Mr. Miller offers one tour which lasts approximately seven hours and covers various points of interest in the District of Columbia (e.g. the U. S. Capitol and Lincoln Memorial) and in northern Virginia (e.g. the Iwo Jima Memorial and the grave site of President Kennedy at Arlington National Cemetery). The fare for this tour is \$20 per adult and \$10 per child under ten years of age (when accompanied by an adult.

1/ Mr. Miller is a sole proprietor doing business as National Capitol Tours.

2/ To the extent the application may be construed as involving transportation between points solely in Virginia, it is hereby dismissed. See Title II, Article XII, Section 1(b) of the Compact.

Mr. Miller operates one 1976 11-passenger van and holds a Class A guide license issued by the District of Columbia. His balance sheet lists assets of \$4,030 (including \$4,000 for the van after depreciation) and no outstanding obligations. Mr. Miller's operating statement for calendar year 1981 3/ shows sightseeing revenues of \$14,000, expenses of \$6,975 4/ and net operating income before income taxes of \$7,025.

In support of the applications it is stated that

This service has been suspended since October 3, 1982, in compliance with the understanding set forth in a letter from Mr. Joel C. Weingarten, WMATC, dated September 28, 1982. 5/ In order to resume this service prior to the end of the current autumn season, there is an immediate and urgent need for Temporary Authority prior to a decision on a certificate which is also being sought by Mr. Miller. * * * Applicant is unaware of any other carriers now providing the service he has been providing and wishes to resume providing.

Title II, Article XII, Section 4(d)(3) of the Compact provides that temporary authority may be granted where there is an immediate and urgent need for service which existing carriers are unable to meet. No immediate and urgent need for service has here been shown. However, rather than deny the application for temporary authority, we will schedule it for a public hearing to be held concurrently with the hearing in Case No. AP-82-14.

Title II, Article XII, Section 4(b) provides that the Commission shall issue a certificate to any qualified applicant therefor ". . . if it finds, after hearing held upon reasonable notice, that the applicant is fit, willing and able to perform such transportation properly and to conform to the provisions of this Act

3/ During that period applicant was operating without authority from this Commission.

4/ No salary or other payment to Mr. Miller is included in the statement of operating expenses.

5/ See generally Case No. MP-82-12 instituted to investigate applicant's unauthorized operations.

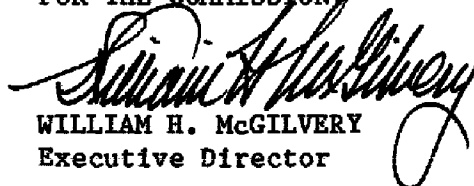
and the rules, regulations and requirements of the Commission thereunder, and that such transportation is or will be required by the public convenience and necessity; otherwise, such application shall be denied." Accordingly, a public hearing shall be scheduled on both applications.

Applicant will be directed to publish notice of these applications and the public hearing scheduled thereon, and he shall be assessed a sum preliminarily estimated to cover the cost of the hearing as mandated by Title II, Article XII, Section 19 of the Compact. In the event that applicant desires to be represented by counsel in these proceedings, his attention is directed to Rule No. 3 of the Commission's Rules of Practice and Procedure.

THEREFORE, IT IS ORDERED:

1. That the above-captioned cases are hereby scheduled for public hearing to commence on Tuesday, November 23, 1982, at 9:30 a.m. in the Hearing Room of the Commission, Room 314, 1625 I Street, N. W., Washington, D. C. 20006.
2. That Louis Miller, is hereby directed to publish once in a newspaper of general circulation in the Metropolitan District notice of the applications and hearing in Case Nos. AP-82-13 and AP-82-14, in the form prescribed by the staff of the Commission, no later than Monday, November 1, 1982.
3. That applicant produce at the public hearing an affidavit of said publication.
4. That any person desiring to protest the application in Case No. AP-82-14 shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard on these matters shall notify the Commission, in writing, not later than Wednesday, November 17, 1982, and shall simultaneously serve a copy of said protest or notice on Mr. Louis Miller, 9206 Bradford Road, Silver Spring, Md. 20906.
5. That Louis Miller is hereby assessed \$300 pursuant to Title 11, Article XII, Section 19(a) of the Compact and directed to deliver said sum to the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006, no later than 12 noon, Thursday, November 18, 1982.

FOR THE COMMISSION:


WILLIAM H. MCGILVERY
Executive Director