

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2444

IN THE MATTER OF:

Served July 27, 1983

Application of HERBERT G. STEPHENS)
to Transfer Certificate No. 69 to)
COTTER LIMOUSINE OF WASHINGTON,)
INC.)

Case No. AP-83-44

By application filed July 20, 1983, Herbert G. Stephens, a sole proprietor trading as Stephens Tour Service, seeks approval to transfer WMATC Certificate of Public Convenience and Necessity No. 69, issued October 27, 1980, to Cotter Limousine of Washington, Inc. Certificate No. 69 authorizes the following service:

IRREGULAR ROUTES:

CHARTER OPERATIONS, transporting passengers between points in the Metropolitan District.

RESTRICTED to the performance of such operations in vehicles with a manufacturer's designed seating capacity of 15 passengers or less including the driver and restricted against (1) transportation described in Commission Regulation No. 70-01 (except qualifying associations as defined in Commission Regulation No. 70-02), (2) operations to or from Washington National Airport and Dulles International Airport and (3) operations conducted solely between points in Virginia.

In calendar year 1982, Stephens transported 320 passengers and earned \$5,783 from WMATC operations.

The contract between the parties calls for purchase of the certificate for \$1,000. Cotter would also buy Stephens' 1980 15-passenger van for \$8,000. A \$500 deposit has already been made. A \$2,000 deposit on the van would be made within 5 days after a grant of temporary approval pursuant to Title II, Article XII, Section 12(d) of the Compact with the balance (\$6,500) to be paid within 5 days after final approval.

Cotter is a District of Columbia corporation established October 8, 1982, and engaged in providing what it calls luxury limousine service in the Metropolitan District. Its balance sheet, dated March 31, 1983, shows the following:

Current Assets	\$ 83,888
Property & Equipment (net)	346,372
Other Assets	<u>10,106</u>
Total Assets	\$440,366
Current Liabilities	\$526,081
Long-Term Debt	13,267
Stockholders' Loan	<u>90,000</u>
	\$629,348
Capital Stock	60,000
Retained Earnings	<u>(248,982)</u>
Total Liabilities & Equity	\$440,366

For the three months ending March 31, 1983, Cotter had operating revenues of \$89,058 and expenses (including interest) of \$190,194.

Title II, Article XII, Section 12(b) of the Compact provides that, if

after hearing held upon reasonable notice, the Commission finds that, subject to such terms, conditions and modifications as it shall find to be necessary, the proposed transaction is consistent with the public interest, it shall enter an appropriate order approving and authorizing such transaction as so conditioned.

In determining the public interest, the Commission considers, among other factors, the fitness of the acquiring carrier, the benefits and costs of the transaction to the riding public, the fairness of the purchase price and the resulting competitive balance of the industry. Cotter, of course, bears the burden of proof on all these issues.

We note, based on the financial data submitted, that Cotter's finances are less than optimal, particularly its current debt to current asset ratio of 6.27 to 1. Cotter must be prepared to present proof of its viability and show (by means of a guarantee from a more solvent entity, or otherwise) that it can meet its financial obligations. These matters will be among those taken up at the public hearing scheduled below.

Cotter also seeks temporary approval to operate Certificate No. 69 pursuant to Title II, Article XII, Section 4(d) of the Compact. In support of this motion, it is stated that Mr. Stephens intends to retire effective 12:01 a.m. on July 28, 1983, coincidental with the expiration of his current insurance policy. Inasmuch as Mr. Stephens has no intent to extend his insurance, Certificate No. 69 would be suspended, thus interrupting service to the public thereunder. Cotter proposes to file an appropriate certificate of insurance so as to prevent any disruption of service.

Temporary approval may be granted if it appears that failure so to do

may result in destruction of or injury to such carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

We find that discontinuance of the service would both diminish the value of Certificate No. 69 and interfere with its usefulness in providing adequate and continuous service to the public. Accordingly, temporary approval shall be granted subject to the conditions set forth below.

THEREFORE, IT IS ORDERED:

1. That this application is hereby scheduled for public hearing on Monday, September 26, 1983, 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 Cotter Limousine of Washington, Inc., is hereby made a coapplicant and a party to this proceeding.
3. That Cotter Limousine of Washington, Inc., is hereby directed to publish once, in a newspaper of general circulation in the Metropolitan District, notice of this application and hearing in the form prescribed by the staff of the Commission no later than Monday, August 15, 1983, and to produce at the hearing an affidavit of publication.
4. That any person desiring to protest shall file a protest in accordance with Commission Rule No. 14, or any person desiring to be heard shall so notify the Commission, in writing, no later than Thursday, September 1, 1983, and simultaneously serve a copy of said protest or notice on counsel for applicant, A. Richard Metzger, Jr., Esquire; Wald, Harkrader & Ross, 1300 - 19th Street, N. W., Washington, D. C. 20036.

5. That Cotter Limousine of Washington, Inc., is hereby directed to file five copies of a statement projecting revenue and revenue deductions attributable to operations under the certificate to be transferred for a 12-month period no later than Thursday, September 8, 1983, produce the original thereof at the public hearing, and serve a copy thereof on each party of record as of September 1, 1983.

6. That Cotter Limousine of Washington, Inc., is hereby assessed \$400 pursuant to Title II, Article XII, Section 19 of the Compact and directed to deliver said amount to the office of the Commission, Suite 316, 1625 I Street, N. W., Washington, D. C. 20006 no later than September 8, 1983, at 12:00 noon.

7. That Cotter Limousine of Washington, Inc., is hereby granted temporary approval to operate WMATC Certificate of Public Convenience and Necessity No. 69 effective for 180 days commencing on July 28, 1983, at 12:01 a.m., subject to compliance with the directives set forth in the next succeeding paragraph.

8. That Cotter Limousine of Washington, Inc., is hereby directed to file an original and one copy of a certificate of insurance in accordance with Commission Regulation No. 62 and two copies of its WMATC Temporary Tariff No. 83-44 containing the same rate as is now approved for Herbert G. Stephens no later than 4:00 p.m. on Wednesday, July 27, 1983.

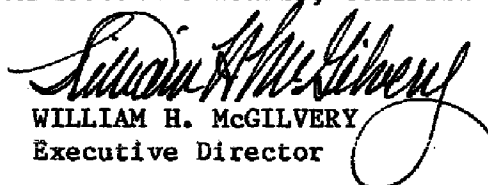
9. That Cotter Limousine of Washington, Inc., is hereby directed to identify its vehicles (other than limousines) as required by Commission Regulation No. 68 with the following

WMATC NO. 69
Operated By Cotter Limousine of Washington, Inc.
T/A Expires 01/23/84

and is further directed to file an affidavit of compliance with the first directive of this paragraph no later than Wednesday, August 3, 1983.

10. That failure to comply with the directives set forth in this order within the time set therefor or such additional time as may be granted by the Commission voids the temporary approval granted herein effective upon the expiration of the said compliance time.

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


WILLIAM H. MCGILVERY
Executive Director