

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2950

IN THE MATTER OF:

Served December 17, 1986

Application of ALL ABOUT TOWN,)
INC., for a Certificate of Public)
Convenience and Necessity to)
Conduct Special Operations --)
Rosecroft Raceway)

Case No. AP-86-36

By application filed September 5, 1986, All About Town, Inc. ("AAT" or "applicant"), a Maryland corporation, seeks a certificate of public convenience and necessity to transport passengers in special operations, over irregular routes, between points in the Metropolitan District, on the one hand, and, on the other, Rosecroft Raceway in Prince George's County, Md. At the hearing held herein, the applicant specifically noted (without proffering an amendment to its application) that it actually seeks authority from 519 Sixth Street, N.W., and the Convention Center at 11th and H Streets, N.W., both points in Washington, D.C., to Rosecroft Raceway, Prince George's County, Md., and return. ^{1/} Pursuant to Order No. 2913, served September 19, 1986, and incorporated herein by reference, a public hearing on the matter was held. The application is unopposed.

SUMMARY OF EVIDENCE

Mr. John Paris, applicant's president, testified on behalf of AAT. Mr. Paris would be responsible for overseeing AAT's daily operations including maintenance and scheduling. The proposed service would operate throughout Rosecroft's racing season (normally October through mid-May with a three-week break around Christmas), leaving 519 Sixth Street, N.W., 70 minutes before post time and proceeding to the Washington Convention Center from which it would depart 50 minutes prior to post time. The service is scheduled to arrive at Rosecroft

^{1/} AAT's application requested authority to conduct "[r]ound-trip transportation from points in the Metropolitan District to Rosecroft Raceway." In Order No. 2913, the Commission interpreted this phrase to mean "between points in the Metropolitan District, on the one hand, and, on the other, Rosecroft Raceway in Prince George's County, Md." At the hearing, the narrower scope of the authority actually sought was described by applicant's president.

about 20 minutes before post time and to depart Rosecroft 10 minutes after the last race is finished. Applicant's proposed tariff is \$6 a person round-trip for adults and \$3 for children age 11 and younger when accompanied by an adult. Admission tickets to the raceway clubhouse would be provided without additional charge, courtesy of Rosecroft. The proposed tariff contains a provision, viz., Rule No. 9, allowing cancellation of service when less than six fares are sold by scheduled departure time. Mr. Paris believes 10 to 25 persons a night can be expected to use the service and acknowledges some conflict between this tariff provision and the service obligation of a certificate holder. Applicant is amenable to deleting this tariff provision.

Applicant would use a 1968 or 1971 49-passenger coach to provide the service. 2/ Back-up would be provided by leasing equipment when necessary. The vehicle would be checked daily for cleanliness and fluid levels. A program of preventive maintenance would be followed monthly. If repairs were needed between monthly checks, they would be made immediately. Mr. Paris, who was responsible for maintenance at White House Sightseeing Corporation from 1969 to 1984, and another experienced mechanic would perform routine maintenance and small repairs. Large repairs would be performed by mechanics at Greyhound and National Coach Works. Drivers would be required to pass physical examinations, to hold chauffeur's licenses, to have good driving records, and to have experience driving commercial motor coaches. Mr. Paris is familiar with the Compact and the Commission's rules and regulations and is willing to comply with them.

A balance sheet dated June 30, 1986, shows total assets for AAT of \$130,945 including current assets of \$21,205, fixed assets after allowance for depreciation of \$105,777, and other assets of \$3,963. Its liabilities totalled \$130,945, including current liabilities of \$42,623, long-term liabilities including shareholder loans of \$92,101, capital stock in the amount of \$5,350, and a deficit to retained earnings of \$9,129. The deficit to retained earnings stems from AAT's non-WMATC operations for the 12 months ended June 30, 1986. For the 26-week racing season at Rosecroft Raceway, applicant projects revenues of \$15,600 and expenses of \$14,196, resulting in net income of \$1,404 and an operating ratio of 91.

Affidavits in support of the application were introduced into evidence. Mr. Corky Giesler, Director of Marketing for Rosecroft

2/ Applicant would use a 1968 coach initially. That vehicle is licensed in the District of Columbia and has passed inspection by the District of Columbia within the past six months. That bus would be replaced "within the next several weeks" by a 1971 vehicle. The 1968 vehicle was mistakenly identified in Order No. 2913 as a 1986 vehicle.

Raceway, attested that racing is held at Rosecroft Raceway 145 days a year. In Mr. Giesler's opinion it is of the utmost importance that public transportation to Rosecroft be available to residents of Washington, D.C. However, he is aware of no Washington area motorcoach company, other than applicant, that is prepared to provide such service. Thirty-three persons attested that no other certificated carrier offered transportation between Washington, D.C., and Rosecroft Raceway and that if this application were granted they would use AAT's service. Of those 33 persons, 27 would board at the Convention Center; five would board at 519 Sixth Street, N.W.; and one person finds both locations convenient.

DISCUSSION AND CONCLUSIONS

In determining whether to grant a certificate of public convenience and necessity, we look to the standards enunciated at Title II, Article XII, Section 4(b) of the Compact which provide that:

. . . the Commission shall issue a certificate . . . ,
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 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
. . . .

Based on a review of the record in this case, we find that applicant has met the burden of proof imposed by the statute.

Applicant has access to the equipment necessary to provide the proposed service. The evidence in this case indicates that the equipment will be regularly maintained by experienced mechanics. In addition applicant is sufficiently stable financially to conduct the limited operations proposed. A projected operating statement indicates AAT anticipates that the proposed service will yield an operating ratio of 91. Mr. Paris is familiar with the Compact and the Commission's rules and regulations and is willing to comply with them. Based on this evidence, we find applicant fit to perform the proposed service and to conform to the provisions of the Compact and Commission rules and regulations.

We further find that the public convenience and necessity require the proposed service. No certificated carrier is currently conducting such service. AAT has been specifically asked by a representative of the raceway to provide public transportation to Rosecroft from Washington, D.C. The affidavits submitted on behalf of 33 members of the public constitute a representative showing that applicant's service is needed and will be used.

THEREFORE, IT IS ORDERED:

1. That All About Town, Inc., is hereby granted authority to transport passengers in special operations, over irregular routes, from 519 Sixth Street, N.W., Washington, D.C., and the Washington Convention Center at 11th and H Streets, N.W., Washington, D.C., to Rosecroft Raceway, Prince George's County, Md., and return.

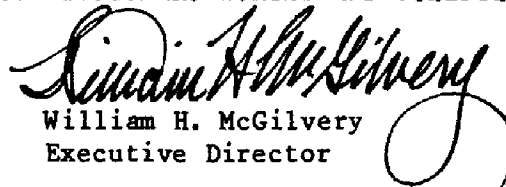
2. That All About Town, Inc., is hereby directed to amend its proposed tariff by deleting Rule No. 9.

3. That All About Town, Inc., is hereby directed to file the following: (1) two copies of its WMATC Tariff No. 1 as amended; (2) a list of equipment indicating make, model, serial number, vehicle identification number, and license plate number for each vehicle to be used in WMATC operations; (3) a certificate of insurance in conformance with Regulation No. 62; and (4) an affidavit certifying compliance with Commission Regulation No. 68 requiring identification of vehicles, for which purpose WMATC No. 131 is hereby assigned.

4. That unless applicant complies with the requirements of the preceding paragraph within 30 days, or such additional time as the Commission may direct or allow, the grant of authority herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

5. That the application, except to the extent granted herein, is hereby denied.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY AND SCHIFTER:


William H. McGilvery
Executive Director

SHANNON, Commissioner, dissents.

This application, as amended, is quite narrow in scope, and it is tempting, therefore, to take a lenient view of the evidence. Even if the company's finances are weak enough to call into question its ability to provide the service, and even if the need for service is such that not one of some 34 witnesses could be moved to appear at the hearing, still all there is to be lost is one round-trip to the racetrack. I must take the view that the statute requires an adequate evidentiary showing for any application; consequently, I do not find applicant's showing here sufficient to merit a grant of authority.