

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D.C.

ORDER NO. 2993

IN THE MATTER OF:

Served April 2, 1987

Application of OLD TOWN TROLLEY)
TOURS OF WASHINGTON, INC., to) Case No. AP-86-42
Amend Certificate of Public)
Convenience and Necessity No. 124)

By application filed November 18, 1986, and amended November 21, 1986, Old Town Trolley Tours of Washington, Inc. ("Town Trolley" or "applicant"), seeks to amend Certificate of Public Convenience and Necessity No. 124 to include transportation of passengers in special operations between points in the District of Columbia, and in charter operations from points in the Metropolitan District to points in Arlington County, Va., and from points in Arlington County, Va., to points in the Metropolitan District. 1/

PROCEDURAL ISSUES

A public hearing on the matter was held on January 20, 1987, pursuant to Order Nos. 2943 and 2957, served December 4, 1986, and January 12, 1987, respectively, and incorporated herein by reference. One company witness and nine public witnesses testified on behalf of the applicant.

The application was protested by The Airport Connection, Inc. ("TAC"), and Gold Line, Inc. TAC filed a Motion to Withdraw Protest on January 15, 1987. The motion was based on Town Trolley's oral commitment to amend its application so as to avoid duplicating existing charter service to or from Washington National Airport. TAC's Motion to Withdraw is hereby granted. Gold Line, Inc., appeared at the hearing but withdrew its protest after the Administrative Law Judge allowed the following restrictive amendments submitted by applicant:

(A) Airport Restriction on Proposed Charter Operations:

Restricted against transportation to or from
Washington National Airport except as performed
in connection with a prearranged charter movement

1/ To the extent this application could be construed to seek authority to transport passengers between points solely within the Commonwealth of Virginia, it was dismissed for want of jurisdiction in Order No. 2943, served December 4, 1986.

by the same party between at least two other points in the Metropolitan District.

(B) Restriction on Proposed Special Operations:

Between points in the District of Columbia, over irregular routes, restricted to lectured sightseeing tours in special operations, in regularly scheduled service, serving hotels and points of interest in the District of Columbia.

(C) Equipment Restriction on Both Proposed Charter and Special Operations:

Restricted in (A) and (B) above to transportation performed in vehicles configured as trackless trolleys constructed on truck chassis.

SUMMARY OF THE EVIDENCE

Mr. Chris Belland, Town Trolley's secretary-treasurer presented evidence respecting its present and proposed operations. Town Trolley currently holds WMATC Certificate No. 124 authorizing the transportation of passengers, over irregular routes, as follows:

PART A

SPECIAL OPERATIONS

Restricted to lectured sightseeing tours over a loop serving hotels in Washington, D.C., located on Sixteenth Street, N.W.; Calvert Street, N.W.; New Jersey Avenue, N.W.; Woodley Road, N.W.; Pennsylvania Avenue, N.W.; Connecticut Avenue, N.W.; and K Street, N.W.; and the Old Post Office-Pavilion, Steven Decatur House, National Zoological Park, Woodrow Wilson House, Georgetown Park, and the Convention Center.

PART B

CHARTER OPERATIONS

Between points in the District of Columbia, Montgomery and Prince George's Counties, Md., Fairfax County and Alexandria, Va., except between points located solely within the Commonwealth of Virginia.

RESTRICTED, in A and B above, to transportation performed in vehicles configured as trackless trolleys and constructed on truck chassis.

Town Trolley has held WMATC operating authority since March 1986. Its current special operations service consists of lectured sightseeing along a "fixed" loop. The service is available at 20-minute to half-hour intervals (depending on season and day of week) between the hours of 9 a.m. and 4 p.m. Passengers board initially at any stop on the loop. Once aboard, passengers may remain in the trolley for a 1-1/2 to 1-3/4 hour lectured riding tour of the city or may disembark at specified points along the route to sightsee, shop, or dine. Passengers who leave the tour at a non-hotel stop are issued passes which allow them to reboard a later trolley at the same point. The sightseeing narrative is continuous, providing an uninterrupted presentation of points of interest. Town Trolley also provides charter service as outlined in Part B of its certificate. All service is provided in 42-passenger vehicles configured to resemble trackless trolleys.

Applicant patterns its operations after tour service provided by affiliated companies in Key West, Fla., and Boston, Mass. Mr. Belland has experience in running these operations and is now responsible for the general management of Town Trolley.

Mr. Belland testified that Town Trolley is seeking additional special operations authority so the company can expand its service by adding new hotels and points of interest in the District of Columbia without having to seek additional authority each time. Town Trolley also is requesting charter authority from points in the Metropolitan District to points in Arlington County, Va., and from points in Arlington County, Va., to points in the Metropolitan District in order to accommodate numerous requests for such service.

Town Trolley supports its application for expanded special operations by stating that it has received numerous requests by hotels, restaurants, and points of interest in the Metropolitan District to be included in its loop operation. Town Trolley has been forced to turn down such requests because of limitations in its current certificate. Town Trolley proposes adding the Southwest Waterfront, Georgetown, The Georgetown Marbury, and the Capitol Hill Holiday Inn to its loop service. Additional stops may be added as the need arises. Mr. Belland stated that Town Trolley's interest in applying for expanded special operations authority is to attain greater flexibility in performing sightseeing operations in the District of Columbia on an individually-ticketed, regularly-scheduled basis. Mr. Belland estimates that the planned additions to the existing loop service will add 15-20 minutes running time. It is Town Trolley's intent to keep loop service under two hours. A second loop may be added in the future to keep each tour within the two-hour objective.

With respect to charter operations, the witness stated that Town Trolley has received an average of five to six requests a month for service to and from Arlington County. Patrons currently in need of

an Arlington County pick-up or drop-off must forego the use of applicant's services or undergo the inconvenience of arranging pick-ups and drop-offs in areas applicant is authorized to serve. Mr. Belland stated that Town Trolley accommodated the requests of major business clients for service involving Arlington County by transporting the groups free of charge. With respect to National Airport service, Town Trolley has no intention of serving National Airport on a regular basis. Town Trolley is requesting the authority in order to accommodate requests from groups who are on a tour and wish, as an incident thereto, to be transported to or from National Airport.

Town Trolley, in its loop operations, currently charges \$8 for adults, \$3 for children under 12, and \$6 for military personnel, senior citizens, and members of a group of 20 or more. Applicant charges a minimum of \$160 for two hours of charter operations plus \$60 for each additional hour. The tariff will remain the same if expanded authority is granted.

Town Trolley currently operates seven 42-passenger vehicles and anticipates operating three additional trolleys. The vehicles are all leased to Town Trolley. Applicant's maintenance routine includes a complete examination of equipment after each use by a trained mechanic. In addition, the driver performs a daily "circle check" of the vehicle which includes an examination of the safety features and cleanliness. Town Trolley offers an extensive driver training program which highlights safety and tour content.

Applicant submitted a balance sheet dated September 30, 1986, showing \$15,981 cash together with other assets for a total of \$140,334. Town Trolley lists liabilities of \$15,816 and owner's equity of \$124,518. A projected operating statement for the 12 months ending December 31, 1987, forecasts total revenue of \$1,002,100 and revenue deductions of \$865,100, yielding net income before taxes of \$137,000. The figures represented in the operating statement represent estimated results of operations under expanded authority. Mr. Belland stated there would be no substantial differences between the figures which are listed on the September 30, 1986, balance sheet and figures that would appear on a balance sheet as of January 1, 1987.

Mr. Michael Parent, director of sales and marketing for the Georgetown Marbury Hotel, testified in support of the application. Mr. Parent is employed by TAJ International Hotels, the operators of the Georgetown Marbury Hotel, The Canterbury Hotel, The Hampshire Hotel, the Quality Inn-Downtown, and the Ramada Inn-Central. The witness was authorized to appear on behalf of all five hotels. Although all five hotels sell tickets for Town Trolley's service, none are served by applicant. While not directly responsible for making transportation arrangements for hotel clients, Mr. Parent's assistance is often solicited by the sales directors of the hotels and by groups requiring charter service. Mr. Parent is also in close contact with

the hotels' desk clerks who have reported that while Town Trolley's existing service is attractive to the hotel guests, it would better serve their needs if it picked up at the Georgetown Marbury Hotel, and dropped riders off much closer to sightseeing areas, and served additional points in the District of Columbia. Gold Line currently serves the TAJ hotels, but Mr. Parent feels that the two services are very different with Gold Line providing a more sophisticated, all-encompassing, luxurious tour, and Town Trolley offering transportation with information along the way.

Ms. Barbara Dewey, coordinator of volunteers at the Washington National Cathedral, testified on behalf of the National Cathedral in support of the application. The National Cathedral is a difficult attraction for tourists to reach because of inadequate transportation services. No private transportation company currently serves the site, except on a charter basis, and there is limited parking. It is believed that if the National Cathedral were included as a stop on Town Trolley's loop service, the number of tourists visiting the site would rise significantly due to easier access. The witness stated that tourists often inquire as to how to reach the site. If Town Trolley is allowed to serve the Cathedral, the witness would inform the callers of Town Trolley's service.

Mr. Stephen Pirato testified in support of the application on behalf of Hogate's Restaurant, located along the waterfront on Maine Avenue, S.W., Washington, D.C. The witness stated that, although the waterfront is close to the tourist attractions on the Mall, it is physically blocked from view by large government buildings and topographic inclines. The waterfront area is not easily accessible by public transportation. Directions to Hogate's are often confusing to tourists. No private carrier serves the waterfront on a regular basis, and taxi rides are often expensive. It is the witness's opinion that Hogate's would be greatly benefited by being placed at or near a Town Trolley loop stop. Tourists would benefit by having eased access to Washington's waterfront view and seafood restaurants. Hogate's does not generally arrange transportation for its patrons, but it does make numerous recommendations as to existing transportation services. Hogate's would recommend Town Trolley's service if its application were granted.

Mr. Peter MacNab, district manager of the Phillips' Flagship Restaurant, testified on its behalf in support of the application. Phillips also is situated along the waterfront. The witness stated that the federal government has spent a great deal of money and effort in developing the waterfront area, but it is not being fully utilized. Mr. MacNab believes that the waterfront would experience an increase in tourist trade as a direct result of inclusion in Town Trolley's service. Mr. MacNab stated that one of the nice things about Town Trolley's operation is that people may embark and disembark at will. He believes that Phillips' customers would be interested in a service

that offers so much flexibility. Mr. MacNab believes that Phillips will benefit by the additional exposure it will receive if the waterfront establishments are included on Town Trolley's loop service.

Ms. Catherine Townsend, director of marketing, Key Bridge Marriott, Arlington, Va., testified on behalf of the hotel in support of the charter portion of the application. An important duty of the sales department is solicitation of group business. Since the hotel is located in Virginia, transportation and accessibility to the city sites are extremely important. Many corporate groups and associations booked at the hotel require transportation to a variety of destinations, including points in the District of Columbia, Montgomery County, Md., or Prince George's County, Md. The hotel requires charter service at least once a week. The witness would promote Town Trolley's service in the hotel's marketing operations.

Mr. Matthew Martinucci testified in support of the application on behalf of The Capital Informer, Inc. Mr. Martinucci is manager of transportation for The Capital Informer, a convention service company which, inter alia, arranges transportation including city-wide shuttles, charter transfers, and sightseeing tours. The Capital Informer makes on the average two or three charter bookings a month requiring from one to 22 vehicles per charter. These moves include transportation between points in Arlington County, Va., Montgomery County, Md., Prince George's County, Md., and the District of Columbia. The Capital Informer has used Town Trolley's charter services in the past and has found the service to be very reliable. It has offered Town Trolley's services as an option in tour packages to prospective clients. Despite requests, however, The Capital Informer has had to exclude Town Trolley from proposals to clients requiring charter service involving Arlington, Va., because applicant lacks the requisite operating authority. The Capital Informer would like to make Town Trolley's novel service available to all its clients. Mr. Martinucci believes that groups who want something different and are not concerned about price would choose Town Trolley as a means of charter transportation.

Mr. Muner Deen, general manager of the Hotel Washington, testified in support of the application. Mr. Deen is responsible for the overall management of the hotel. Most of the hotel's staff reports directly to him. He is made aware of the transportation needs of his guests through contact with the sales and reservation departments. Gold Line currently serves the hotel, but the witness views Town Trolley's service as being different from Gold Line's. Mr. Deen believes that having Town Trolley's service would make the hotel more competitive with other area hotels and would meet the individual needs of tourists who want to visit specific areas of the city without riding a standard tour bus. If this application were granted, the hotel would actively promote Town Trolley's operations by including the service in its sales packages, placing Town Trolley brochures in all of the rooms, and informing hotel staff of the service.

Mr. Harrison A. Hartman, Jr., testified in support of the application on behalf of the L'Enfant Plaza Hotel where he is the managing director. The witness believes that Town Trolley's special operations service would be attractive to hotel guests because they are constantly looking for something different to do. The witness believes that the flexibility of getting on and off the trolley is a major benefit not otherwise available to hotel guests. The L'Enfant Plaza Hotel also requires charter service to Arlington County, Va., and return. Many of the hotel's guests like to go to Arlington National Cemetery, and business patrons often have meetings in Rosslyn or Crystal City. The hotel arranges charter transportation for an average of 60 to 75 groups per year. If this application is granted, the hotel would use Town Trolley's services.

Ms. Mary Beth Baluta, Eastern Regional sales manager for USA Hosts, testified in support of the application on behalf of that organization. USA Hosts arranges transportation and sightseeing tours for visiting groups. Ms. Baluta has used Town Trolley's service in the past and has been very satisfied. She views its service as a "fun," novel way to see the sights that is different from any other service now available in the Washington area. USA Hosts books an average of 50 to 75 charter trips a month to points throughout the Metropolitan District including Arlington County, Va. The company would like to offer applicant's service for Arlington trips. The witness views Town Trolley's loop service as a benefit to its clients if it could modify its routes to serve additional hotels.

DISCUSSION AND CONCLUSIONS

In determining whether to grant or expand 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 provides that:

[T]he 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, we find applicant capable of providing the proposed service and willing to conform to the Compact and the Commission's rules and regulations. Town Trolley is a WMATC certificated carrier which began operations less than a year ago. It operates seven vehicles configured as trackless trolleys constructed on

truck chassis, and it anticipates operating ten of those vehicles in the summer. It has implemented a well-developed plan of operation patterned on its affiliates' successful operations in other locations. Its appearance in the market has generated much interest and has resulted in numerous requests for expanded service. Based on these requests and its growing popularity, Town Trolley filed the instant application. Although thinly capitalized, Town Trolley projects net income before taxes for 1987 of \$137,000. Given the scope of Town Trolley's existing authority, a grant of this application should improve applicant's current financial situation. Applicant has complied with Commission rules and regulations in the past and has shown a willingness to stay in compliance. We find that applicant is shown to be fit, willing and able properly to perform the proposed service.

We now turn to the matter of whether applicant has satisfied its burden of proving that the public convenience and necessity require the proposed service. In determining whether an applicant has met its burden, the Commission relies on the test enunciated in Pan-American Bus Lines Operations (1 MCC 190, 203 [1936]). The Pan-American test consists of three parts:

- (1) whether the new operation or service will serve a useful public purpose responsive to a public demand or need;
- (2) whether this purpose can and will be served as well by existing carriers; and
- (3) whether it can be served by applicant with the new operations or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

The application is supported by public witnesses who represent hotels, restaurants, tour brokers, and tourist attractions. The testimony of these witnesses shows a public need for expanded special operations authority in the District of Columbia and for charter operations between points in the Metropolitan District and Arlington County, Va.

Since Town Trolley began operating in July 1986, new hotels have opened and additional hotels and points of interest have become aware of Town Trolley's special operations service. Hotels supporting the application are scattered throughout much of the District of Columbia. Although many of these hotels are served by private carriers offering structured tours, Town Trolley is unique in two respects. First, its service is provided in vehicles configured as trackless trolleys. Second, by means of passes which enable passengers to leave a tour at a point of interest and reboard a later trolley at the same point, they are able to stretch a two-hour lectured sightseeing tour

over a large part of the day, thereby touring completely those points of special interest to them while merely viewing those points of lesser interest to them personally. Moreover, Town Trolley currently serves certain areas not served by other tour companies including Georgetown and the Kalorama area. If this application is granted, Town Trolley would serve at least two other attractions not currently available on other than a charter basis, the Washington National Cathedral and Washington's Southwest waterfront area.

A review of the record also indicates a need for Town Trolley's charter service between points in Arlington County, Va., on the one hand, and, on the other, points in the District of Columbia, Prince George's County, Md., and Montgomery County, Md.

Two witnesses supporting the application represented transportation brokers. Mr. Matthew Martinucci of The Capital Informer and Ms. Mary Beth Baluta of USA Hosts are responsible for arranging charter transfers and sightseeing tours. The Capital Informer makes on the average two or three charter bookings a month requiring between one and 20 vehicles. USA Hosts books an average of 50 to 75 charter trips per month. Both witnesses believe that a major benefit of Town Trolley's service is the novelty aspect of its vehicles. Both companies have used Town Trolley's charter service in the past and have found it to be very reliable. They have, however, been limited in the use of Town Trolley because of its lack of authority to serve points in Arlington County, Va. Their inability to offer Town Trolley for trips into and out of Arlington County limits the services available to the client.

Ms. Catherine Townsend testified in support of the charter portion of the application. Ms. Townsend represented the Key Bridge Marriott located in Arlington County, Va. Ms. Townsend stated that a major function of the hotel is solicitation of group business. Transportation plays a major part in solicitation because of the location of the hotel. People who make bookings there want to be assured that adequate transportation into the District of Columbia, and to points in Montgomery and Prince George's Counties, Md., will be available. A large number of the Marriott's bookings are from business groups searching for a different way to get around Washington and the surrounding areas. Ms. Townsend believes that Town Trolley's services offer the rider something unique and plans to promote the service in the hotel's sales solicitations.

The managing director of the L'Enfant Plaza Hotel stated that its guests are constantly looking for something different to do when they visit the nation's capital. He believes that the unique nature of Town Trolley's loop service will be a major attraction to hotel guests. He also projects a need for charter service into and out of Arlington County, Va. Many of the hotel's business patrons have meetings in Arlington County. The hotel has used Town Trolley's services in the

past. Hotel visitors enjoyed riding the trolley and found the overall experience enjoyable. The hotel arranges transportation for 60-75 charter groups a year and would recommend Town Trolley's services to future groups.

The record indicates that applicant presently offers a unique sightseeing and charter service that will be enhanced if additional authority is granted. An inherent part of Town Trolley's special operations is the frequent and regular intervals at which its vehicles traverse a pre-established loop. Applicant's loop service offers the rider the freedom to tour the city at an individualized pace. The authority sought in this application would give the rider greater exposure to the sites of the District. The novel nature of the trolley provides an unusual mode of transportation for per-capita patrons and charter groups.

Town Trolley's amendments to its application alleviated the concern of existing carriers that applicant's proposed service would endanger or impair their operations. As previously mentioned, all of the protestants in the case withdrew their protests. Inasmuch as no evidence has been submitted in protest to Town Trolley's application, we conclude that applicant's proposed service will not materially affect the operations of existing carriers.

Lastly, respecting applicant's proposed special operations between points in the District of Columbia, it is observed that applicant saw fit to include a clause pointing out that it would be "serving hotels and points of interest in the District of Columbia." Beyond the fact that the term "points of interest" could pose interpretation and enforcement problems in the future, this clause appears to be unnecessary. Accordingly, it will not be reflected in the authority hereinafter granted.

THEREFORE, IT IS ORDERED:

1. That Old Town Trolley Tours of Washington, Inc., is hereby conditionally granted authority to transport passengers as follows, contingent upon timely compliance with the terms of this order:

IRREGULAR ROUTES

PART A

SPECIAL OPERATIONS

Between points in the District of Columbia, restricted to regularly-scheduled, lectured sightseeing tours, and

PART B

CHARTER OPERATIONS

Between points in the Metropolitan District, on the one hand, and, on the other, points in Arlington County, Va., except between points located solely within the Commonwealth of Virginia.

RESTRICTED in Parts A and B above to transportation performed in vehicles configured as trackless trolleys constructed on truck chassis.

FURTHER RESTRICTED in Part B above against transportation to or from Washington National Airport except as performed in connection with a prearranged charter movement by the same party between at least two other points in the Metropolitan District.


2. That Old Town Trolley Tours of Washington, Inc., is hereby directed to provide the following: (a) a list of equipment indicating make, model, serial number, license plate number, vehicle number, and ownership of all vehicles to be used in WMATC operations; (b) equipment leases in accordance with Commission Regulation No. 69 covering all vehicles not owned by applicant; and (c) two copies of its WMATC Tariff No. 2.

3. That applicant is hereby assessed and directed to pay to the Commission the additional sum of \$117 to cover the expenses of the proceeding pursuant to the Compact, Title II, Article XII, Section 19.

4. That unless applicant complies with the requirements of the two preceding paragraphs 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 said compliance time.

5. That upon timely compliance with the three preceding paragraphs, an appropriately revised Certificate of Public Convenience and Necessity No. 124 will be issued to Old Town Trolley Tours of Washington, Inc.

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


William H. McGilvery
Executive Director