

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3224

IN THE MATTER OF:

Served August 25, 1988

Application of SHAW BUS SERVICE, )  
INC., for Approval to Transfer )  
Certificate No. 100 to AMERICAN )  
COACH LINES, INC. )

Case No. AP-88-09

By motion filed May 25, 1988, pursuant to Commission Rule No. 15-01, the Office of General Counsel (OGC) seeks summary denial of the application of Shaw Bus Service, Inc., to transfer its WMATC Certificate No. 100 to American Coach Lines, Inc., a District of Columbia corporation (ACL-DC). It is OGC's position that such approval would be inconsistent with the public interest because ACL-DC has shown itself to be unfit as to compliance. In support of its motion OGC relies on Order No. 3079, served October 9, 1987, and the report of SG Associates, Inc. (SG), entitled "Inspection of Dispatch and Charter Records of American Coach Lines, Inc.," filed on April 1, 1988, pursuant to that order. In Order No. 3079, the Commission found that ACL-DC had knowingly and willfully violated the Compact; Commission rules, regulations, and orders; and the terms of its own WMATC Certificate No. 1. As a result of those findings, the Commission in Order No. 3079 suspended WMATC Certificate No. 1 for 90 days and established a six-month audit period during which ACL-DC's compliance with that order would be monitored. SG's report was filed pursuant to the audit requirement. It is OGC's position that the report indicates that during the suspension period ACL-DC continued to transport passengers for hire between points in the Metropolitan District and charged off-tariff rates for some of that transportation. According to OGC such behavior represents continued disregard for the Compact and Commission rules and regulations and constitutes proof that ACL is unfit as to compliance.

ACL-DC admits no wrongdoing and denies that it is unfit but does not object to denial or dismissal of the instant case.

OGC's motion shall be granted. In order to approve a transfer under the Compact, Title II, Article XII, Section 4(h) or an acquisition of control under the Compact, Title II, Article XII, Section 12, the Commission must find that the transfer or acquisition is consistent with the public interest. The Commission has invariably interpreted the phrase "consistent with the public interest" to include, inter alia, fitness including compliance fitness. See Order No. 2508, served December 5, 1983, and Order No. 2692, served April 3, 1985. Accord Order No. 2953, served December 22, 1986, and Order No. 2765, served September 17, 1985. By Order No. 3222, issued this

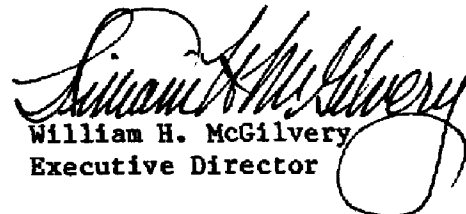
date, we stated our finding that SG's report proves that ACL-DC routinely transported passengers for hire between points in the Metropolitan District while WMATC Certificate No. 1 was suspended. This activity was in violation of the Compact, the terms of WMATC Certificate No. 1, and Order No. 3079. ACL-DC's certificate having been revoked pursuant to the Compact, Title II, Article XII, Section 4(g) for willfull failure to comply, we are unable to find ACL-DC fit as to compliance. Lacking a finding of compliance fitness, we are equally unable to approve this application.

THEREFORE, IT IS ORDERED:

1. That the Motion for Summary Judgment is hereby granted.

2. That the application of Shaw Bus Service, Inc., to transfer WMATC Certificate No. 100 to American Coach Lines, Inc., a District of Columbia corporation, is hereby denied.

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

  
William H. McGilvery  
Executive Director